

**STATE OF KANSAS  
STATE BANK COMMISSIONER  
SPECIAL ORDER 2019-1**

Residential Real Estate Mortgages, Appraisal and Evaluation Threshold

This Special Order was issued this 9th day of October, 2019, by the Acting State Bank Commissioner (Commissioner).

**WHEREAS**, pursuant to 84 FR 53579, the Office of the Comptroller of Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation have adopted a final rule on October 9, 2019 amending regulations affecting the requirement for appraisals and evaluations on residential real estate. Pursuant to the new final rule, when a nationally-chartered bank is engaged in the activity of making residential real estate mortgages under \$400,000 to secure principal debt of single 1-to-4 family residential properties, the bank is not required to conduct an appraisal provided it conducts an evaluation of the real estate consistent with safe and sound banking practices; and

**WHEREAS**, pursuant to K.S.A. 9-1101(a)(3) and K.A.R. 17-11-21, Kansas state-chartered banks are not permitted to engage in the activity of making residential real estate mortgage loans to secure principal debt over \$250,000 unless an appraisal is made by an appraiser who is licensed or certified by the state in which property is located and who is independent of the transaction; and

**WHEREAS**, K.S.A. 9-1715, as amended, grants the Commissioner the power to authorize Kansas state-chartered banks to engage in any activity in which such banks could engage were they operating as a national bank; and

**WHEREAS**, the Commissioner deems the issuance of this Special Order to be reasonably required to preserve the welfare of state banks and to promote the competitive equality of state banks and other insured depository institutions.

**IT IS THEREFORE ORDERED**, subject to the limitations and conditions set forth in this Special Order, a Kansas state-chartered bank is hereby authorized to make residential real estate mortgages to secure principal debt under \$400,000 without an appraisal made by an appraiser who is licensed or certified by the state in which the property is located and who is independent of the transaction; and

**IT IS FURTHER ORDERED**, prior to making a residential real estate mortgage to secure principal debt between \$25,000 and \$400,000, two officers or directors, or a qualified individual who is independent of the transaction, shall complete an accurate evaluation of the real estate unless the bank has an appraisal conducted compliant with K.A.R. 17-11-21 or the loan is otherwise exempt from an appraisal or evaluation pursuant to K.A.R. 17-11-21(c); and

**IT IS FURTHER ORDERED**, any person who conducts an evaluation pursuant to this Special Order shall view the premises, make a written statement of value, and sign and file the statement with the bank. Such evaluation shall include: (1) a legal description of the property,

including street address (if applicable), its present and projected use, (2) The owner(s) of the property, (3) The type and general condition of improvements, including approximate age, size, and construction, The estimated market value and basis used for determining that value, including a description of the information and analysis used, and (4) The date of the evaluation and the signature and address of the evaluator(s). Evaluations should include any calculations and supporting assumptions necessary to provide the reader an understanding of the analysis and conclusions contained in the evaluation.; and

**IT IS FURTHER ORDERED**, this Special Order shall not prohibit the Commissioner from requiring an appraisal or evaluation if it is deemed necessary to address safety and soundness concerns; and

**IT IS FURTHER ORDERED**, this Special Order shall be applicable to any residential mortgage loan securing a single 1-to-4 family residential property, including, but not limited to, construction loans; and

**IT IS FURTHER ORDERED** pursuant to K.S.A. 9-1715(b), as amended, the terms of this Special Order shall take effect on October 9th, 2019 . If K.A.R. 17-11-21 is amended, this Special Order shall automatically become revoked when the amendment incorporating the change is effective.

**IT IS SO ORDERED.**



**ACTING BANK COMMISSIONER**  
David L. Herndon