

KANSAS ADMINISTRATIVE REGULATIONS

Agency 17 – Office of the State Bank Commissioner

Article 24. – Mortgage Business

K.A.R.17-24-1. Signed acknowledgment; contents.

Before a licensee enters into any contract for the provision of services or receives any compensation or promise of compensation for a mortgage loan, the licensee shall acquire from the customer a signed acknowledgment containing only the following items:

- (a) The name and address of the mortgage business;
- (b) the name and position of the individual presenting the acknowledgment to the customer for a signature;
- (c) a statement in at least 10-point boldface letters that reads as follows: “(name of licensee) is a mortgage business licensed with the Kansas Office of the State Bank Commissioner in accordance with the laws of the state of Kansas. This license does not represent an endorsement or recommendation of the licensee's products or services by the Office of the State Bank Commissioner. As a consumer, you may submit a complaint or inquiry about this mortgage business by delivering a written statement to the Office of the State Bank Commissioner, 700 Jackson, Suite 300, Topeka, Kansas 66603”; and
- (d) the original signature of the customer or customers and the date on which the signature or signatures were attached.

(Authorized by K.S.A. 9-2208 and 9-2209; implementing K.S.A. 9-2208; effective, T-17-4-9-99, April 9, 1999; effective July 16, 1999; amended Oct. 3, 2003.)

K.A.R.17-24-2. Mortgage business fees.

At the time of filing any application pursuant to the Kansas mortgage business act, K.S.A. 9-2201 et seq. and amendments thereto, each applicant, licensee, or registrant shall remit to the office of the state bank commissioner the following applicable nonrefundable fees:

- (a) New or renewal application for each principal place of business..... \$400
- (b) New or renewal application for each branch office \$300
- (c) Application for new registration as loan originator..... \$100
- (d) Renewal registration as a loan originator..... \$50

(Authorized by K.S.A. 2013 Supp. 9-2209; implementing K.S.A. 9-2204, K.S.A. 2013 Supp. 9-2205 and K.S.A. 9-2215; effective, T-17-4-9-99, April 9, 1999; amended Dec. 21, 2001; amended Oct. 2, 2009; amended September 26, 2014.)

K.A.R.17-24-3. Prelicensing and continuing education; requirements.

(a) Each individual required to register as a loan originator pursuant to the Kansas mortgage business act, K.S.A. 9-2201 et seq. and amendments thereto, shall complete at least 20 hours of prelicensing professional education (PPE) approved in accordance with subsection (c), which shall include at least the following:

- (1) Three hours of federal law and regulations;

- (2) three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) Each individual required to register as a loan originator pursuant to the Kansas mortgage business act, K.S.A. 9-2201 et seq. and amendments thereto, shall annually complete at least eight hours of approved continuing professional education (CPE) as a condition of registration renewal, which shall include at least the following:

- (1) Three hours of federal law and regulations;
- (2) two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(c) Each PPE and each CPE course shall first be approved by the office of the state bank commissioner (OSBC), or its designee, before granting credit.

(d) In addition to the specific topic requirements in subsections (a) and (b), PPE and CPE courses shall focus on issues of mortgage business, as defined by K.S.A. 9-2201 and amendments thereto, or related industry topics.

(e) One PPE or CPE hour shall consist of at least 50 minutes of approved instruction.

(f) Each request for PPE or CPE course approval shall be submitted on a form approved by the OSBC. A request for PPE or CPE course approval may be submitted by any person, as defined by K.S.A. 9-2201 and amendments thereto.

(g) Evidence of satisfactory completion of approved PPE or CPE courses shall be submitted in the manner prescribed by the commissioner. Each registrant shall ensure that PPE or CPE credit has been properly submitted to the OSBC and shall maintain verification records in the form of completion certificates or other documentation of attendance at approved PPE or CPE courses.

(h) Each CPE year shall begin on the first day of January and shall end on the 31st day of December each year.

(i) A registrant may receive credit for a CPE course only in the year in which the course is taken. A registrant shall not take the same approved course in the same or successive years to meet the annual requirements for CPE.

(j) Each registrant who fails to renew the registrant's certificate of registration, in accordance with K.S.A. 9-2205 and amendments thereto, shall obtain all delinquent CPE before receiving a new certificate of registration.

(k) A registrant who is an instructor of an approved continuing education course may receive credit for the registrant's own annual continuing education requirement at the rate of two hours of credit for every one hour taught.

(Authorized by and implementing K.S.A. 2008 Supp. 9-2209, as amended by 2009 SB 240, §9; effective March 1, 2002; amended Oct. 2, 2009.)

K.A.R.17-24-4. Record retention.

(a) In any mortgage transaction in which the licensee does not close the mortgage loan in the licensee's name, the licensee shall retain the following documents, as applicable, for at least 36 months following the loan closing date, or if the loan is not closed, the loan application date:

- (1) The application;
- (2) the good faith estimate;
- (3) the early truth-in-lending disclosure statement;

- (4) any written agreements with the borrower that describe rates, fees, broker compensation, and any other similar fees;
- (5) an appraisal performed by a Kansas-licensed or Kansas-certified appraiser completed within 12 months before the loan closing date, the total appraised value of the real estate as reflected in the most recent records of the tax assessor of the county in which the real estate is located, or, for a nonpurchase money real estate transaction, the estimated market value as determined through an acceptable automated valuation model, pursuant to K.S.A. 16a-1-301(6) and amendments thereto;
- (6) the signed Kansas acknowledgment as required by K.S.A. 9-2208(b), and amendments thereto;
- (7) the adjustable rate mortgage (ARM) disclosure;
- (8) the home equity line of credit (HELOC) disclosure statement;
- (9) the affiliated business arrangement disclosure;
- (10) evidence that the special information booklet, consumer handbook on adjustable rate mortgages, home equity brochure, reverse mortgage booklet, or any suitable substitute was delivered in a timely manner;
- (11) the certificate of counseling for home equity conversion mortgages (HECMs);
- (12) the loan cost disclosure statement for HECMs;
- (13) the notice to the borrower for HECMs;
- (14) phone log or any correspondence with associated notes detailing each contact with the consumer;
- (15) any documentation that aided the licensee in making a credit decision, including a credit report, title work, verification of employment, verification of income, bank statements, payroll records, and tax returns;
- (16) the settlement statement; and
- (17) all paid invoices for appraisal, title work, credit report, and any other closing costs.

(b) In any mortgage transaction in which the licensee provides any money to fund the loan or closes the mortgage loan in the licensee's name, the licensee shall retain both the documents required in subsection (a) and the following documents, as applicable, for at least 36 months from the mortgage loan closing date:

- (1) The high loan-to-value notice required by K.S.A.16a-3-207 and amendments thereto;
- (2) the final truth-in-lending disclosure statement, including an itemization of the amount financed and an itemization of any prepaid finance charges;
- (3) any credit insurance requests and insurance certificates;
- (4) the note and any other applicable contract addendum or rider;
- (5) a copy of the filed mortgage or deed;
- (6) a copy of the title policy or search;
- (7) the assignment of the mortgage and note;
- (8) the initial escrow account statement or escrow account waiver;
- (9) the notice of the right to rescind or waiver of the right to rescind, if applicable;
- (10) the special home ownership and equity protection act disclosures required by regulation Z in 12 CFR 226.32(c) and 226.34(a)(2), as amended and in effect on October 1, 2009, if applicable;
- (11) the mortgage servicing disclosure statement and applicant acknowledgement;
- (12) the notice of transfer of mortgage servicing;
- (13) any interest rate lock-in agreement or float agreement; and

(14) any other disclosures or statements required by law.

(c) In any mortgage transaction in which the licensee owns the mortgage loan or the servicing rights of the mortgage loan and directly or indirectly undertakes collection of payments or enforcement of rights against debtors, the licensee shall retain the documents required in subsections (a) and (b) and the following documents, as applicable, for at least 36 months from the final entry to each account:

- (1) A complete payment history, including the following:
 - (A) An explanation of transaction codes, if used;
 - (B) the principal balance;
 - (C) the payment amount;
 - (D) the payment date;
 - (E) the distribution of the payment amount to the following:
 - (i) Interest;
 - (ii) principal;
 - (iii) late fees or other fees; and
 - (iv) escrow; and
 - (F) any other amounts that have been added to, or deducted from, a consumer's account;
- (2) any other statements, disclosures, invoices, or information for each account, including the following:
 - (A) Documentation supporting any amounts added to a consumer's account or evidence that a service was actually performed in connection with these amounts, or both, including costs of collection, attorney's fees, property inspections, property preservations, and broker price opinions;
 - (B) annual escrow account statements and related escrow account analyses;
 - (C) notice of shortage or deficiency in escrow account;
 - (D) loan modification agreements;
 - (E) forbearance or any other repayment agreements;
 - (F) subordination agreements;
 - (G) foreclosure notices;
 - (H) evidence of sale of foreclosed homes;
 - (I) surplus or deficiency balance statements;
 - (J) default-related correspondence or documents;
 - (K) the notice of the consumer's right to cure;
 - (L) any property insurance advance disclosure;
 - (M) force-placed property insurance;
 - (N) notice and evidence of credit insurance premium refunds;
 - (O) deferred interest;
 - (P) suspense accounts;
 - (Q) phone log or any correspondence with associated notes detailing each contact between the servicer and the consumer; and
 - (R) any other product or service agreements; and
- (3) documents related to the general servicing activities of the licensee, including the following:
 - (A) Historical records for all adjustable rate mortgage indices used;
 - (B) a log of all accounts sold, transferred, or assigned that details to whom the accounts were sold, transferred, or assigned;
 - (C) a log of all accounts in which foreclosure activity has been initiated;
 - (D) a log of all credit insurance claims and accounts paid by credit insurance; and

(E) a schedule of servicing fees and charges imposed by the licensee or a third party.

(d) In addition to meeting the requirements specified in subsections (a), (b), and (c), each licensee shall retain for at least the previous 36 months the documents related to the general business activities of the licensee, which shall include the following:

- (1) The business account check ledger or register;
- (2) all financial statements, balance sheets, or statements of condition;
- (3) all escrow account ledgers and related deposit statements as required by K.S.A. 9-2213, and amendments thereto;
- (4) a journal of mortgage transactions as required by K.S.A. 9-2216a and amendments thereto;
- (5) all lease agreements for Kansas locations; and
- (6) a schedule of the licensee's fees and charges.

(Authorized by K.S.A. 9-2209, as amended by 2009 SB 240, §9; implementing K.S.A. 2008 Supp. 9-2208, K.S.A. 9-2213, and K.S.A. 2008 Supp. 9-2216, as amended by 2009 SB 240, §12; effective Oct. 31, 2003; amended Oct. 2, 2009.)

K.A.R.17-24-5. Prelicensure testing.

(a) On and after July 31, 2010, each individual required to register as a loan originator pursuant to the Kansas mortgage business act, K.S.A. 9-2201 et seq. and amendments thereto, shall pass a qualified written test. For purposes of this regulation, the commissioner's designee for developing and administering the qualified written test shall be the nationwide mortgage licensing system and registry.

(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including the following:

- (1) Ethics;
- (2) federal laws and regulations pertaining to mortgage origination; (3) state laws and regulations pertaining to mortgage origination; and
- (4) federal and state laws and regulations, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

- (c) (1) An applicant shall not be considered to have passed a qualified written test unless the applicant achieves a test score of at least 75 percent.
- (2) An applicant may retake a test three consecutive times, with each consecutive taking occurring at least 30 days after the preceding test.
- (3) After failing three consecutive tests, an applicant shall wait at least six months before taking the test again.
- (4) A registrant who fails to maintain a valid license for five years or longer shall retake the test, not including any time during which the individual is a registered loan originator, as defined in section 1503 of title V, S.A.F.E. mortgage licensing act of 2008, P.L. 110-289.

(Authorized by and implementing K.S.A. 2008 Supp. 9-2209, as amended by 2009 SB 240, §9; effective Oct. 2, 2009.)

K.A.R.17-24-6. Bond requirements.

Each applicant for a new or renewal Kansas mortgage business act license shall submit a bond in the following amounts:

- (a) For any applicant who maintains a bona fide office, \$50,000.00 or, if the applicant or licensee originated or made more than \$50,000,000.00 in Kansas mortgage loans during the previous calendar year, \$75,000.00; or
- (b) for each applicant or licensee who does not maintain a bona fide office, \$100,000.00 or, if the applicant or licensee originated more than \$50,000,000.00 in Kansas mortgage loans during the previous calendar year, \$125,000.00.

(Authorized by K.S.A. 2008 Supp. 9-2209, as amended by 2009 SB 240, §9, and K.S.A. 2008 Supp. 9-2211, as amended by 2009 SB 240, §10; implementing K.S.A. 2008 Supp. 9-2211, as amended by 2009 SB 240, §10; effective Oct. 2, 2009.)