



700 S. W. Jackson
Suite 300
Topeka, KS 66603-3796

Office of the State
Bank Commissioner

Phone: (785) 380-3939

www.osbckansas.org

David L. Herndon, Bank Commissioner

Laura Kelly, Governor

CML Guidance 2021-2
Kansas Uniform Consumer Credit Code (UCCC)
Working Remotely
June 30, 2021

The Office of the State Bank Commissioner, Consumer and Mortgage Lending Division (OSBC-CML) recognizes the ongoing need for employees of its Supervised Loan Licensees and Credit Notification Filers to work remotely during the ongoing COVID-19 pandemic. Governor Laura Kelly has provided guidance this last year through the issuance of Executive Orders; however, OSBC-CML has determined that the question of remote offices¹ for work done pursuant to the UCCC is a relevant question past the pandemic.

This guidance document addresses only Supervised Loan Licensees and Credit Notification Filers. Mortgage Loan Originators are addressed under the KMBA in Guidance Document 2021-1.

Law

The following provisions of the UCCC contain references to locations, offices, and places of business.

Licensing Places of Business

K.S.A. 16a-2-302 contains three provisions that address Supervised Loan Licensees and their place of business:

- (5) The administrator shall adopt rules and regulations regarding whether a licensee shall be required to obtain a single license for each place of business or whether a licensee may obtain a master license for all of its places of business...
- (6) No licensee shall change the location of any place of business without giving the administrator at least 15 days prior written notice.
- (7) A licensee may conduct the business of making loans for personal, family or household purposes only at or from any place of business for which the licensee holds a license and not under any other name than that in the license...

¹ Remote office means an employee working at his or her home pursuant to the UCCC.

Together, the provisions require a licensee to conduct business under the UCCC “at or from” a licensed place of business, and that location cannot be changed without notice to the Administrator. The Administrator may, by regulation, determine if a single license is required for each place of business or whether a master license can be obtained for all places of business. The OSBC has established that a license is required for each place of business pursuant to K.A.R. 75-6-30.

“Place of business” is defined in K.A.R. 75-6-30 as the location where an applicant or licensee regularly performs the following: making a supervised loan, making any loan for personal, family or household purpose to a consumer, or accepting payments on loans. ATMs are deemed to be a location for making supervised loans.

Location of Records

K.S.A. 16a-2-304 says that records do not need to be kept in the place of business so long as the Administrator is given free access to the records wherever located. Every licensee, assignee or servicer and every credit notification filer shall provide the Administrator with the name, address, telephone number, contact person regarding the location and availability of current records of a consumer credit transaction. Subsection (4) of this statute allows the records to be retained in electronic form.

K.S.A 16a-6-104(i) requires the Administrator to have free and reasonable access to the offices, places of business and records of the licensee or credit notification filer. K.S.A. 16a-6-106 says if the records are located outside of Kansas, the records should either be made available to the Administrator at a convenient location within this state or the Administrator may examine them at the place where they are maintained.

Fee for Business Locations

K.S.A. 16a-6-203 requires a credit notification filer to pay to the Administrator an annual fee for each business location for that year.

Conclusion:

The UCCC does not expressly require employees of Supervised Loan Licensees or Credit Notification Filers to work in the company’s office or place of business. Kansas law requires only that the Supervised Loan Licensee conduct business “at or from” a licensed place of business. Employees are managed by the Supervised Loan Licensee or Credit Notification Filer, which is responsible and liable for its employees, whether they work in the office or remotely. Remote work by employees does not interfere with the OSBC’s ability to access and examine records, given the requirements for record-keeping stated above. In conclusion, employees of Supervised Loan Licensees and Credit Notification Filers under the UCCC may conduct their work from a remote office. Aside from remote offices, physical places of business where a Supervised Loan Licensee conducts business should continue to hold a license, and physical places of business where a Credit Notification Filer conducts business should continue to be reported annually.

Supervised Loan Licensees and Credit Notification Filers should be mindful of the OSBC-CML best practices offered for remote workers, as security of information will always be a necessary component of remote work.² Best practices include, but are not limited to, the following:

- Computers and devices that are utilized for remote work should include at-rest encryption.
- Steps should be taken to minimize the remote use of paper records with confidential information and proper destruction/disposal of paper documents must be employed.
- Connectivity to the main office or sensitive systems should be encrypted in transit by use of a virtual private network (VPN) or similar technology.
- Activity should be conducted in a private home environment, avoiding public areas such as coffee shops or libraries.

Supervised Loan Licensees and Credit Notification Filers will be responsible and liable for any breaches of security and should consult their Information Technology Department or other technology or security expert to ensure that their records are secure and safe.

This guidance document will expire on July 1, 2022, at which time the OSBC-CML will re-evaluate this document to determine future application of these principles.

² See K.S.A. 16a-2-304(2) requiring establishment, maintenance, and enforcement of written policies and procedures regarding security of records, reasonably designed to prevent the misuse of consumer personal and financial information, and K.S.A. 16a-2-304(4)(c) requiring reasonable safeguards to protect records from loss, alteration, or destruction.