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TO: Senate Financial Institutions and Insurance Committee

FROM: Jim Payne, Assistant Deputy Commissioner
Consumer and Mortgage Lending Division
Office of the State Bank Commissioner

DATE: February 13, 2024

RE: SB 495

Good morning, Mr. Chairman and members of the Committee. I am Jim Payne, Assistant Deputy Commissioner and Director of Examinations with the Kansas Office of the State Bank Commissioner. The Kansas Office of the State Bank Commissioner (OSBC) appreciates the opportunity to provide testimony in support of SB 495 to modernize the Kansas Uniform Consumer Credit Code (UCCC) and the Kansas Mortgage Business Act (KMBA). The UCCC currently regulates consumer credit, which includes auto loans, payday loans, and second mortgages. The KMBA currently regulates first mortgages and contains all mortgage licensing requirements.

The UCCC was originally enacted in 1973 and has been infrequently amended over the years. The original group of states passing the act numbered eleven; though, over time, many states have modified their respective versions of the UCCC, and thus, it is no longer "uniform." No substantive recodification or significant modernization of most of its statutes has occurred in Kansas since 1973. This bill, culminating over at least eight years, aims to modernize the UCCC. The OSBC has made numerous engagement efforts with members of the various industries the UCCC affects, internal stakeholders, other state and federal agencies, and members of the public to obtain feedback related to regulation and oversight. Much has been learned, evidenced by the revisions SB 495 would make to the UCCC.

The KMBA was enacted in 1996 and has been amended several times in the past 20 years, most significantly in 2009 following the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act, in 2016 with the transition of mortgage licenses from the UCCC to the KMBA, and in 2022 to define and allow remote working conditions for mortgage personnel post-Covid. SB 495 continues the 2016 effort to transition the mortgage compliance statutes out of the UCCC and into the KMBA, housing relevant mortgage business provisions in one chapter for all participants.

SB 495 proposes the following primary updates to the UCCC, brought by a range of stakeholders:

- Removes all mortgage compliance provisions from the UCCC and relocates them into the KMBA (K.S.A. 9-2201 *et seq.*). Repeals prior mortgage licensing provisions related to the 2016 KMBA changes.
- Adjusts the existing \$25,000 amount financed threshold to cover consumer credit transactions up to the threshold amount (currently \$69,500) listed in Regulation Z (TILA), as adjusted annually.
- Aligns licensing requirements to the standards of use in the Nationwide Multistate Licensing System (NMLS) currently used by the OSBC, including application abandonment procedures, and late renewal fees which will be allotted for consumer education by the administrator.
- Adjusts the allowed finance charge on closed-end consumer loans from a blended rate to a maximum 36% interest rate.
- Adjusts the allowed prepaid finance charge on consumer loans and sales to the lesser of 2% of the amount financed or \$300.

- Amends the ban on credit card surcharges to allow a surcharge if the customer receives proper notice at the point of sale or in advance of the transaction;
- Requires books and records for eligible examinations as determined by the OSBC to be provided within three business days of a written request.
- Allows the borrower in a single-installment, payday loan transaction an optional extended payment plan once every twelve months to repay a loan over four payments.
- Allows electronic signatures and electronic writings per K.S.A. 16-1601 *et seq.* If the consumer agrees in writing to the use of electronic methods instead of mail, any requirement to mail a document may be satisfied by sending the document by electronic methods.
- Clarifies the administrator's powers in K.S.A. 16a-6-104 and clarifies the confidentiality of examination materials under in K.S.A. 16a-6-106, including informal agreements.
- Removes a duplicative filing requirement for supervised loan licensees as consumer credit filers in K.S.A. 16a-6-201, simplifies and limits the existing filings to entities annually conducting 25 or more credit transactions, and extends the annual filing deadline for existing consumer credit filers in K.S.A. 16a-6-203.


SB 495 proposes the following primary updates to the KMBA:

- Incorporates existing home loan compliance provisions from the UCCC, to apply to “covered transactions” meaning an extension of credit on a home by mortgage or otherwise.
- Incorporate relevant definitions from the UCCC into the KMBA.
- Allows electronic signatures and electronic writings per K.S.A. 16-1601 *et seq.* If the consumer agrees in writing to the use of electronic methods instead of mail, any requirement to mail a document may be satisfied by sending the document by electronic methods.
- Exempts certain business entities, such as trusts, with no employees where a licensed mortgage company acts as proxy by conducting all mortgage business on behalf of the entity.
- Adjusts the existing consumer-signed “acknowledgment” to a borrower notice provided by a licensed mortgage company.

SB 495 would modernize the UCCC and KMBA to allow for more efficient regulation by the state, in part, by easing the statutory complexities and burdens on the public, the industry, and OSBC staff examiners who are tasked with regulating the consumer credit and mortgage markets. The bill provides clarity and confidence for industry members, recognizing the changes in how consumers obtain credit, mortgages, and financial services. Finally, the bill aims to continue the UCCC's service in the public interest, maintaining a fair and effective consumer credit market in Kansas.

We appreciate the opportunity to share our support for SB 495 and thank the Committee for its consideration of the bill. We respectfully request that, when appropriate, the Committee recommends SB 495 favorably for passage. I am happy to stand for questions at any time. Should you have questions or desire more information or clarification, please reach out to me by email at Jim.Payne@osbckansas.org or by phone at (785) 379-3826.

Regards,



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