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TO: Senate Financial Institutions and Insurance Committee

FROM: Jennifer Cook, Deputy Commissioner
Consumer and Mortgage Lending Division
Office of the State Bank Commissioner (OSBC)

DATE: January 26, 2017

RE: SB 18

Good morning Mr. Chairman and members of the committee. The OSBC appreciates the opportunity to provide testimony in support of SB 18 which makes adjustments to the Kansas Mortgage Business Act (KMBA). The KMBA provides the OSBC with statutory authority to license and regulate entities conducting mortgage business with Kansas consumers. This includes licensing mortgage originators, brokers, servicers and loan originators and examining these entities for compliance with state and federal law and regulation.

During the 2016 session, the Kansas Legislature approved SB 369 to modernize the KMBA. A key provision of SB 369 transitioned all licensees that conduct mortgage business into the KMBA for licensing purposes. Previously, certain mortgage companies were licensed under the Kansas Uniform Consumer Credit Code (UCCC). Approximately 150 companies transitioned to a KMBA license and this process was completed seamlessly. SB 369 also reduced duplicative report filing by licensees and streamlined the Consumer and Mortgage Lending Division's regulatory processes.

This year, the OSBC proposes a bill that makes additional changes to the KMBA to address several items the agency identified during the past year.

The first provision clarifies that no other license, other than the KMBA license, is required to conduct mortgage business. While this language was included in SB 369, the agency seeks to make it abundantly clear that a KMBA license is the only license required to conduct mortgage business in Kansas.

The second provision permits the commissioner to deem abandoned a mortgage company or loan originator application if the applicant fails to complete its application within 60 days of written notice by the agency. If the commissioner makes a determination that an application is abandoned, the applicant may reapply with the complete information or exercise their right to appeal the determination under the Kansas administrative procedure act (KAPA).

The intent of this provision is to establish a timeframe during which the commissioner can address an application if an applicant does not provide the information necessary for the commissioner to determine whether licensure is appropriate. Our office receives

approximately 2,100 applications per year for loan originators alone. Additional applications are received for mortgage companies and branches. Most applications are complete when received, or are completed after initial follow-up from our office which usually occurs within a few days. However, for applications that remain incomplete, staff must monitor the status of these application and make additional follow-up attempts to obtain the needed information. While we strive to work with applicants who may need additional time to complete an application, some applicants make little effort to finalize their applications and yet do not voluntarily withdraw their application as permitted by statute. Setting a timeframe to deem an application abandoned provides the OSBC a process to better manage incomplete applications. This provision also permits the OSBC to use staff time more efficiently to process complete applications and better serve applicants who diligently follow the requirements for licensure.

The third provision addresses the standards under which applicants and licensees document their minimum net worth of \$50,000 as required by the KMBA. Evidence of net worth is demonstrated by providing the OSBC a balance sheet or consolidated financial statement, accompanied by a written statement from an independent certified public accountant attesting that the documentation was prepared in accordance with generally accepted accounting principles. However, the agency recognizes that other accepted accounting principles are in use, and proposes to permit an applicant or licensee to utilize an accounting method other than generally accepted accounting principles for purposes of preparing their balance sheet or consolidated financial statement. If an alternative method is used, the applicant or licensee is required to demonstrate the alternative accounting principle meets or exceeds the generally accepted accounting principles. The OSBC anticipates this requirement could be met by providing a written statement by an independent certified public accountant.

Finally, each licensee is required to submit an annual report to the OSBC for the preceding calendar year. The annual report includes data on the number of loans made, volume of activity, types of business conducted, and financial data. SB 18 permits information contained in an annual report to remain confidential, while still permitting the information to be published in composite form.

SB 18 provides additional clarity to the KMBA and improves the agency's ability to regulate companies engaged in mortgage business in Kansas. We appreciate the opportunity to share our support for SB 18 and thank the committee for its consideration of the bill.