

State of Kansas

Office of the State Bank Commissioner

Notice of Hearing on Proposed Amendment of Administrative Regulation

A public hearing will be conducted on Friday, February 5, 2021, 9:00 a.m. via Microsoft Teams to consider an amendment of Kansas Administrative Regulation 17-24-2, a rule and regulation promulgated by the Office of the State Bank Commissioner (OSBC) regarding licensing fees under the Kansas Mortgage Business Act (KMBA).

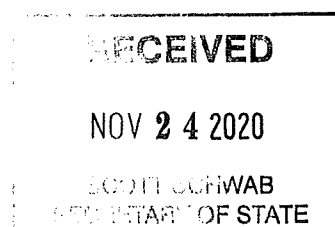
This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed amended regulation. All interested parties may submit written comments prior to the hearing to the OSBC, 700 S.W. Jackson, Suite 300, Topeka, Kansas 66603-3796 or by email to Melissa.Wangemann@osbckansas.org. All interested parties will be given a reasonable opportunity to present their views orally or in writing regarding the amended regulation during the public hearing. Any person interested in attending the hearing should contact Melissa Wangemann at her email (given above) or 785-379-3569 in advance of February 5, 2021 to request the remote hearing information.

Copies of the current regulation, proposed amendment, and the economic impact statement may be obtained from the OSBC by contacting Melissa Wangemann at Melissa.Wangemann@osbckansas.org, 785-379-3569, or the mailing address given above. Copies of the proposed amendment and the economic impact statement can be viewed at the OSBC website, www.osbckansas.org.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Melissa Wangemann at the OSBC.

Summary of proposed amended regulation: The amended regulation, K.A.R. 17-24-2, increases the fee for a renewal registration for a mortgage loan originator (MLO). A MLO is a person who processes residential mortgage loan applications and performs other duties as outlined in the KMBA at K.S.A. 9-2201(h). The amendment addresses the shift from branch offices to remote offices for mortgage business employees. The amended regulation increases the MLO fee from \$50 to \$100; however, amendments to the KMBA will eliminate branch office fees with the intended effect of neutralizing costs for mortgage business licensees.

Melissa A. Wangemann
General Counsel



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~~ \$100

(Authorized by K.S.A. ~~2013~~ 2019 Supp. 9-2209; implementing K.S.A. 2019 Supp. 9-2204, K.S.A. ~~2013~~ 2019 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 Sept. 26, 2014; amended P-
_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Office of the State Bank Commissioner

Agency

Melissa Wangemann

Agency Contact

296-1545

Contact Phone Number

17-24-2

K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The amended regulation, K.A.R. 17-24-2, increases the fee for a renewal registration for mortgage loan originators (MLO). A MLO is a person who processes residential mortgage loan applications and performs other duties as outlined in the Kansas Mortgage Business Act at K.S.A. 9-2201(h). The amended regulation increases the fee from \$50 to \$100. When compared with other states, Kansas' renewal fee for mortgage loan originators is low.

After consulting with those in the industry, the Office of the State Bank Commissioner (OSBC) decided to move the mortgage business licensing process from one that is tied to branch offices to a process that is instead based on loan originators who work remotely from their homes. The increase in the loan originator fee is intended to offset decreases in branch office licenses as the agency and the industry move away from branches to remote offices.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that used by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

This regulation is not mandated by the federal government and is not part of federal law. This regulation is not different from contiguous states' laws, or any other states for that matter, as all states have licensed MLOs or a similar licensee. See the chart below for the license renewal fees of other states.

Midwest States

Iowa Division of Banking	\$50.00
Illinois Department of Financial Professional Regulation - Division of Banking	\$150.00
Indiana Department of Financial Institutions	\$100.00
Michigan Department of Insurance and Financial Services	\$150.00
Minnesota Department of Commerce	\$50.00
Missouri Division of Finance	\$100.00
North Dakota Department of Financial Institutions	\$50.00
Nebraska Department of Banking and Finance	\$125.00
Ohio Division of Financial Institutions	\$150.00
South Dakota Division of Banking	\$75.00
Wisconsin Department of Financial Institutions	\$250.00

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Average	\$113.64
<u>Neighboring States:</u>	
Colorado Division of Real Estate	\$51.00
Missouri Division of Finance	\$100.00
Nebraska Department of Banking and Finance	\$125.00
Oklahoma Department of Consumer Credit	\$260.00
Average	\$134.00

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

We believe the new fee—although it is increased—will enhance future business activity once it is coupled with reduced branch registrations. This fee is a necessary step in modifying the business model for mortgage business registration with the OSBC. The current law requires that mortgage businesses license a branch location and also requires the same businesses to license MLOs. Our intent with the regulation is to allow loan origination activities through work from home. The OSBC is in the process of eliminating the requirement for a branch license and its corresponding fee, to adapt to remote offices. No long-term fiscal impact is expected because branch fees will go down in return for increases in loan originator fees. In other words, the OSBC is aiming for a neutral fiscal impact between two fees: branch location fees and MLO fees. The MLO fee charged is not expected to alter the number of MLOs on file with the OSBC. OSBC would note this fee was \$100 previously and was reduced to \$50 in 2013.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

Mortgage companies and mortgage loan originators (MLOs) are the only sectors affected. This fee is paid at the time of filing a MLO renewal license. There are currently 6,932 MLOs licensed with the OSBC, which would create an increase of \$346,600. Based on past trends of a 20-25% decrease in annual registrations, the OSBC projects that 5,200 MLOs will renew in FY 2021. Therefore, the projected increased revenue from MLO fees is $5,200 \times \$50$ increase = \$260,000.

There is no economic impact on public utility taxpayers, local governments, or other sectors outside of the mortgage business sector.

C. Businesses that would be directly affected by the proposed rule and regulation;

Mortgage companies doing business in the state of Kansas.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefit of the amended regulation is it allows for more flexibility in the mortgage business industry by allowing work from home for MLOs rather than requiring they be in a branch location.

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- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The measures taken by the OSBC balance the increase in loan originator renewal fees with a decrease in branch fees.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

5,200 MLOs x \$100 fee = \$520,000 annual revenue to the OSBC from MLO renewal fees.

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

1. MLOs currently licensed with the OSBC = 6,932.
2. Past trends indicate that the OSBC will see a 20-25% decrease in annual renewals for MLOs, so the projected number of MLOs that will renew in FY 2021 is 5,200.
3. MLO Revenue impact: Next year's estimate for total fees related to the MLO renewal fee, with the new fee, is $5,200 \times \$100 = \$520,000$. The increase alone with the new fee is $5,200 \times \$50 \text{ increase} = \$260,000$. Without the new, higher fee and at next year's estimated number of renewals, estimate revenue would be $5,200 \times \$50 = \$260,000$.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed amended regulation does not impact local government or school districts.

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- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The OSBC consulted and solicited information from law firms that represent the mortgage industry and affiliate business members of the American Association of Residential Mortgage Regulators (AARMR). They supported dropping the requirement for mortgage business branch location licenses in return for increased loan originator fees that allow for more flexibility for workers to work from home.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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