

State of Kansas
Office of the State Bank Commissioner

Notice of Hearing on Proposed Administrative Regulations

March 13, 2014

A public hearing will be conducted on Friday, May 23, 2014 at 10:30 a.m. in the conference room of the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas to consider the adoption of amendments to K.A.R. 17-11-18.

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 rules and regulations. All interested parties may submit written comments prior to the hearing to the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas 66603 or by email to amber.capoun@osbckansas.org. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements 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 Amber Capoun at (785) 296-2266.

The proposed regulation amendments are for adoption on a permanent basis. A copy of the proposed amended regulation and Economic Impact Statement can be obtained by contacting Amber Capoun. A summary of the proposed amendments and the economic impact follows:

K.A.R. 17-11-18. Loans; documentation requirements. The amendments to K.A.R. 17-11-18 are for clarification purposes only. It is the current practice of the Office of the State Bank Commissioner and must be made clear that the thresholds in the regulation for requiring credit information on a borrower is based on the borrowers total obligations to the bank.

There will be no economic impact to the Office of the State Bank Commissioner or other governmental agencies and their employees.

Judi M. Stork
Acting Bank Commissioner

**OFFICE OF THE STATE BANK COMMISSIONER
ECONOMIC IMPACT STATEMENT
K.A.R. 17-11-18**

I. Summary of Proposed Amendments to Existing Regulation, Including Their Purpose.

The proposed amendments to K.A.R. 17-11-18 are for clarification purposes only. Current reading of the language leads one to believe that credit information is only required per loan that is in excess of the threshold amount. This reading is not consistent with the current practice of the Office of the State Bank Commissioner or traditional lending restrictions and safeguards. Those limits and safeguards, legal lending limits for example, are more commonly attributed to a borrower's total obligations to a bank not, just individual loans. The proposed amendment aims to clarify this position.

II. Whether or Not the Regulation is Mandated By Federal Law.

These amendments are not mandated by federal law, nor do they exceed the requirements of applicable federal law.

III. Anticipated Economic Impact Upon the Office of the State Bank Commissioner, Other Governmental Agencies, Private Citizens or Individuals.

The proposed amendments reflect the current practice of the agency and there is no anticipated fiscal impact to the banks subject to the regulation, the Office of the State Bank Commissioner, other governmental agencies, private citizens, or individuals.

IV. Summary of Alternatives Considered and Why Amendment to the Regulation is Necessary.

The proposed amendments constitute the least costly and least intrusive option considered for achieving the regulatory intent of protecting the safety and soundness of Kansas banks.

17-11-18. Loans; documentation requirements. (a) Except as specified in this subsection, each bank shall maintain complete and current credit information, not older than 15 months, for each ~~loan that~~ borrower for whom the total amount of the following exceeds \$100,000:

(1) All loans made to the borrower; and

(2) all loans attributable to the borrower pursuant to K.S.A. 9-1104, and amendments thereto.

This requirement shall not apply ~~to each loan that is~~ if all loans made or attributable to the borrower are adequately secured.

(b) Unless loan repayment is guaranteed by a governmental program or private insurance company, the following requirements shall be met:

(1) For each real estate loan in excess of \$25,000 but less than \$50,000, the bank shall complete one of the following tasks:

(A) The bank shall verify in writing that a lien search of the records of the county register of deed's office was conducted and the bank's lien position was determined. This verification of a lien search shall be on file with the bank.

(B) The bank shall obtain and maintain on file either an attorney's written title opinion or a title insurance policy.

(C) For a non-purchase-money mortgage that is not a refinancing of an existing first mortgage, the bank shall obtain an insurance policy fully insuring the bank against

ATTORNEY GENERAL

FEB 19 2014

APPROVED BY



DEPT. OF ADMINISTRATION

OCT 11 2013

APPROVED

loss of the mortgage priority position. The bank shall maintain a copy of the policy and any other supporting information on file.

(2) For each real estate loan of \$50,000 or more, an attorney's written title opinion or a title insurance policy shall be on file with the bank.

(c) If the value of the improvements on any real estate is necessary for adequate protection of the loan, an insurance policy covering these improvements against fire and windstorm shall be on file with the bank for any loan in excess of \$25,000.

(d) A real estate mortgage or deed of trust, showing the filing information with the county register of deeds, shall be on file with the bank for each loan collateralized by real estate.

(e) For any loan collateralized by personal property, if the bank is required by law to file a financing statement to perfect a security interest, the bank shall retain a copy of the filed financing statement. In other cases, the bank shall maintain all documents related to the loan. (Authorized by K.S.A. ~~2011~~ 2013 Supp. 9-1713; implementing K.S.A. ~~2011~~ 2013 Supp. 9-1101, K.S.A. 9-1130, and K.S.A. 2013 Supp. 9-1713; effective Jan. 1, 1966; amended May 1, 1983; amended Jan. 27, 1992; amended Aug. 9, 1996; amended Jan. 18, 2002; amended May 30, 2003; amended May 3, 2013; amended P-_____.)

ATTORNEY GENERAL

FEB 19 2014

APPROVED BY 

APPROVED

FEB 19 2014

DEPT. OF ADMINISTRATION

