

SESSION OF 2005

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2145**

As Amended by House Committee on  
Financial Institutions

**Brief\***

HB 2145, as amended, would amend several sections of the Uniform Consumer Credit Code (UCCC). Specifically, the bill would:

- Establish a contract rate. Under current law, the rate is classified as an annual rate. Calculations utilizing the 365/365 method and the 360/360 method for the rate of the finance charge would remain unchanged.
- Amend provisions for the computation of finance charges for consumer loans secured by a first or second lien real estate mortgage by creating an amortization method: contract rate divided by 360 and the resulting rate is multiplied by the outstanding principal amount and 30 assumed days between scheduled due dates. The provision would allow that a creditor assume there are 30 days in the computational period, regardless of the actual number of days between the scheduled dates.
- Amend the license requirements for individuals making supervised loans by requiring an applicant to provide evidence in the form and manner prescribed by the Administrator that establish the applicant will maintain a satisfactory minimum net worth to engage in the credit transactions for which the applicant has proposed.
- Amend the provision for making supervised loans to loans for personal, family, or household purposes.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Clarify references to applicants and licensees to include persons the applicant or licensee contracts with or employs who is directly engaged in lending activities.
- Amend annual reporting requirements to include a provision to prevent alteration or another destruction of records with the intent to impede, obstruct, or influence any investigation by the Administrator.
- Amend the requirement for first and second loan consumer mortgages to allow that a mortgage shall not be recorded if moneys are not available for disbursement to the mortgagor upon expiration of all applicable waiting periods as required by law, unless the individual informs the mortgagor in writing of a definite date by which payment is to be made and obtains written permission for the delay.
- Authorize a statute of limitations for prosecution of crimes under the Act, no more than 5 years after the alleged violation. A restitution provision is added and includes that an order may include an interest rate not to exceed 8 percent.
- Require fingerprinting of applicants, licensees, copartnerships or associations, or others directly engaged in lending activities.

## **Background**

HB 2145 was requested by the Office of the State Bank Commissioner. The Deputy Commissioner for Consumer Mortgage and Lending who serves as the UCCC Administrator indicated that the bill would provide both clean up language and the additions would strengthen consumer protections and enforcement by the Administrator. The bill was supported by the Kansas Association of Mortgage Brokers.

The bill was opposed by the Kansas Association of Financial Services (KAFFS) and Loan Max.

The House Committee on Financial Institutions' amendments would limit persons contracted with or employed by the applicant, licensee, copartnership, association, or its officers or directors to those individuals who are directly engaged in lending activities in consider-

ation of prior felony crimes or crimes involving fraud, dishonesty, or deceit and those who have been the subject of any disciplinary action. Under current law, actions of officers and directors are considered as possible reasons for denial, revocation, or suspension of a license. The Committee also amended the provision requiring a three-day delivery of records to the Administrator to reflect provisions under current law that require the information be made reasonably available. The criminal penalty provisions of KSA 2004 Supp 16a-5-301 are also removed from the bill by the Committee. The Committee also amended the fingerprinting provisions in HB 2145 to limit other persons subject to fingerprinting to those individuals engaged in lending activities. Finally, the House Committee amended the proposed civil penalty maximums from \$10,000 to \$5,000, as included in current law, and amended the penalty to individuals who have knowingly or willfully violated any provision of the Act.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill indicates that the bill could affect current business owners because of the stricter laws, but no estimate is available on the fiscal effect. The fiscal note on the introduced version also indicates that annual costs to staff and operate additional capacity, as estimated by the Sentencing Commission, would be incurred if individuals were subject to the criminal penalties as stated in the original bill.