

16a-3-207. Consumer loans secured by certain real estate mortgages; appraisals and notice. (1)

The provisions of this section apply only to a consumer loan which is secured by a first mortgage or a second mortgage on the consumer's principal residence. The provisions of this section do not apply to a lender who is a supervised financial organization.

(2) Before making a loan subject to this section, a lender shall obtain the appraised value of the real estate to be encumbered. The appraisal evidencing the appraised value shall be retained by the lender and preserved in accordance with the recordkeeping requirements set forth in K.S.A. 16a-2-304, and amendments thereto.

(3) If, based upon the appraisal, the loan to value ratio of the loan exceeds 100%, then the lender shall deliver to the consumer:

(a) A free copy of the appraisal; and

(b) a written notice regarding high loan-to-value mortgages and the availability of consumer credit counseling.

The administrator may adopt rules and regulations regarding the form of the notice to be delivered to the consumer and the names, addresses and telephone numbers of selected consumer credit counseling providers.

(4) The notice referred to in subsection (3) shall be given to the consumer not less than three days before the loan is made. The notice must be retained by the lender and preserved in accordance with the record-keeping requirements set forth in K.S.A. 16a-2-304, and amendments thereto.

(5) If, within three days after receiving the notice, the consumer elects not to enter into the loan transaction, then the lender must promptly refund to the consumer any application fees or other amounts paid by the consumer to the lender. However, the lender is not required to refund any bona fide out-of-pocket costs incurred by the lender before the consumer elected not to enter into the loan transaction, provided that such costs were paid or are payable to a person or persons not related to the lender. Notwithstanding the provisions of this subsection, a bona fide appraisal fee paid or payable to a person related to the lender need not be refunded to the consumer.

(6) This section shall be supplemental to and a part of the uniform consumer credit code.

History: L. 1999, ch. 107, § 1; L. 2000, ch. 64, § 2; July 1.