

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 284

As Amended by House Committee on Financial
Institutions and Pensions

Brief*

SB 284, as amended, would amend the Kansas Money Transmitter Act (KMTA). Descriptions of specific bill provisions follow.

Rules and Regulations

The bill would specify the State Bank Commissioner (Commissioner) is allowed to issue an order, after notice and an opportunity for hearing, to address any violation of rules and regulations adopted pursuant to the KMTA.

Informal Agreements

The bill would allow the Commissioner to enter into an informal agreement at any time with a person to resolve a matter that would not constitute a criminal offense arising under the KMTA, rules and regulations adopted pursuant to the KMTA, or an order issued pursuant to the KMTA.

The bill would specify the adoption of an informal agreement would not be subject to the Kansas Administrative Procedure Act or the Kansas Judicial Review Act, nor considered an order or other agency action. The informal agreement would be considered confidential examination material, which is confidential by law and privileged. The bill would specify such informal agreements would not be subject

*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>

to the Open Records Act, subpoena, discovery, or admissible in evidence in any private civil action.

The authority of the Commissioner to enter into informal agreements prescribed by the bill would sunset on July 1, 2023, unless the Legislature reviews and reenacts the provision.

Commissioner's Designees

The bill would permit designees of the Commissioner to administer, interpret, and enforce the KMTA.

Background

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Office of the State Bank Commissioner (OSBC). In the Senate Committee hearing, a representative of the OSBC testified in support of the bill. The representative stated the bill would help the OSBC align agency staff and responsibilities to administer the KMTA and provide another option to bring companies into compliance with state law and regulation. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to make a statutory reference change related to confidentiality from the Kansas Mortgage Business Act to the KMTA.

In the House Committee on Financial Institutions and Pensions hearing, OSBC representatives provided proponent testimony and answered questions about the OSBC entering into informal agreements with companies conducting money transmission in Kansas. No neutral or opponent testimony was provided.

Following the hearing, the Commissioner submitted additional information to the House Committee, including the

steps that currently could be taken to address examination findings. Under the bill, one additional step could include use of an informal agreement known as a Memorandum of Understanding (MOU). According to the OSBC, an MOU may be appropriate if OSBC management determines the entity is committed to and capable of implementing effective corrective measures.

The OSBC comment further noted the OSBC is authorized to issue informal agreements under the State Banking Code, the Kansas Mortgage Business Act, and the Credit Services Organization Act, and cited examples of issues the OSBC has resolved with informal agreements, including unlicensed activity; less than satisfactory financial condition; inadequate recordkeeping; and lack of supervision of agents, service providers, or employees. The OSBC comment also identified findings and violations the agency would not address with an informal agreement.

The House Committee amended the bill to clarify the type of matter that could be resolved by an informal agreement between the OSBC and its licensee by excluding matters constituting a criminal offense.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the OSBC indicates the costs associated with implementing the requirements of the bill would be negligible and could be absorbed within the OSBC's existing budget.