

**SENATE BILL No. 507**

By Committee on Federal and State Affairs

2-14

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1 AN ACT concerning open records; relating to disclosure of records under  
2 the open records act; continuing in existence certain exceptions to  
3 disclosure; amending K.S.A. 40-2,203 and 40-3805 and K.S.A. 2021  
4 Supp. 9-2216a, 22-4620, 50-1124 and 50-1128 and repealing the  
5 existing sections; also repealing K.S.A. 40-6011.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2021 Supp. 9-2216a is hereby amended to read as  
9 follows: 9-2216a. (a) Each licensee shall annually, on or before April 1,  
10 file a written report with the commissioner containing the information that  
11 the commissioner may reasonably require concerning the licensee's  
12 business and operations during the preceding calendar year. The report  
13 shall be made in the form prescribed by the commissioner, which may  
14 include reports filed with the nationwide mortgage licensing system and  
15 registry. Any licensee who fails to file the report required by this section  
16 with the commissioner by April 1 shall be subject to a late penalty of \$100  
17 for each day after April 1 the report is delinquent, but in no event shall the  
18 aggregate of late penalties exceed \$5,000. The commissioner may relieve  
19 any licensee from the payment of any penalty, in whole or in part, for good  
20 cause. The filing of the annual written report required under this section  
21 shall satisfy any other reports required of a licensee under this act.

22 (b) Information contained in the annual report shall be confidential  
23 and may be published only in composite form. ~~The provisions of this~~  
24 ~~subsection shall expire on July 1, 2022, unless the legislature reviews and~~  
25 ~~reenacts this provision prior to July 1, 2022.~~

26 Sec. 2. K.S.A. 2021 Supp. 22-4620 is hereby amended to read as  
27 follows: 22-4620. (a) All law enforcement agencies in this state shall adopt  
28 a detailed, written policy requiring electronic recording of any custodial  
29 interrogation conducted at a place of detention.

30 (b) All local law enforcement agencies in this state shall collaborate  
31 with the county or district attorney in the appropriate jurisdiction regarding  
32 the contents of written policies required by this section.

33 (c) Policies adopted pursuant to this section shall be made available  
34 to all officers of such agency and shall be available for public inspection  
35 during normal business hours.

36 ~~(d) Policies adopted pursuant to this section shall be implemented by~~

1 ~~all Kansas law enforcement agencies on or before July 1, 2018.~~

2 ~~(e)~~ Policies adopted pursuant to this section shall include the  
3 following:

4 (1) A requirement that an electronic recording shall be made of an  
5 entire custodial interrogation at a place of detention when the interrogation  
6 concerns a homicide or a felony sex offense;

7 (2) a requirement that if the defendant elects to make or sign a written  
8 statement during the course of a custodial interrogation concerning a  
9 homicide or a felony sex offense, the making and signing of the statement  
10 shall be electronically recorded;

11 (3) a statement of exceptions to the requirement to electronically  
12 record custodial interrogations, including, but not limited to:

13 (A) An equipment malfunction preventing electronic recording of the  
14 interrogation in its entirety, and replacement equipment is not immediately  
15 available;

16 (B) the officer, in good faith, fails to record the interrogation because  
17 the officer inadvertently fails to operate the recording equipment properly,  
18 or without the officer's knowledge the recording equipment malfunctions  
19 or stops recording;

20 (C) the suspect affirmatively asserts the desire to speak with officers  
21 without being recorded;

22 (D) multiple interrogations are taking place, exceeding the available  
23 electronic recording capacity;

24 (E) the statement is made spontaneously and not in response to an  
25 interrogation question;

26 (F) the statement is made during questioning that is routinely asked  
27 during the processing of an arrest of a suspect;

28 (G) the statement is made at a time when the officer is unaware of the  
29 suspect's involvement in an offense covered by the policy;

30 (H) exigent circumstances make recording impractical;

31 (I) at the time of the interrogation, the officer, in good faith, is  
32 unaware of the type of offense involved; and

33 (J) the recording is damaged or destroyed, without bad faith on the  
34 part of any person or entity in control of the recording; and

35 (4) requirements pertaining to the retention and storage requirements  
36 of the electronic recording.

37 ~~(f)~~(e) (1) During trial, the officer may be questioned pursuant to the  
38 rules of evidence regarding any violation of the policies adopted pursuant  
39 to this section.

40 (2) Lack of an electronic recording shall not be the sole basis for  
41 suppression of the interrogation or confession.

42 ~~(g)~~(f) Every electronic recording of any statement as required by this  
43 section shall be confidential and exempt from the Kansas open records act

1 in accordance with K.S.A. 45-229, and amendments thereto. ~~The~~  
 2 ~~provisions of this subsection shall expire on July 1, 2022, unless the~~  
 3 ~~legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,~~  
 4 ~~and amendments thereto, prior to July 1, 2022.~~

5 ~~(h) The following words and phrases;~~(g) As used in this section, ~~are~~  
 6 defined as follows:

7 (1) "Custodial interrogation" means questioning of a person to whom  
 8 warnings given pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), are  
 9 required to be given;

10 (2) "place of detention" means a fixed location under the control of a  
 11 Kansas law enforcement agency where individuals are questioned about  
 12 alleged crimes; and

13 (3) "electronic recording" means audio or audiovisual recording. An  
 14 audiovisual recording is preferred.

15 ~~(i) This section shall take effect on and after July 1, 2017.~~

16 Sec. 3. K.S.A. 40-2,203 is hereby amended to read as follows: 40-  
 17 2,203. (a) (1) Nothing in this section shall be construed to prescribe or  
 18 impose corporate governance standards and internal procedures beyond  
 19 those required by state corporate law. However, nothing in this section  
 20 shall be construed to limit the commissioner's authority, or the rights and  
 21 obligations of third parties under K.S.A. 40-222, and amendments thereto.

22 (2) The requirements of this section shall apply to all insurers  
 23 domiciled in this state.

24 (b) As used in this section:

25 (1) "Commissioner" means the commissioner of insurance of the state  
 26 of Kansas.

27 (2) "Corporate governance annual disclosure" or "CGAD" means a  
 28 confidential report filed by the insurer or insurance group made in  
 29 accordance with the requirements of this section.

30 (3) "Insurance group" means those insurers and affiliates included  
 31 within an insurance holding company system as defined in K.S.A. 40-  
 32 3302, and amendments thereto.

33 ~~(4) "Insurer" shall have the same meaning as set forth means the~~  
 34 ~~same as defined~~ in K.S.A. 40-3302, and amendments thereto, except that it  
 35 ~~shall~~ "insurer" does not include agencies, authorities or instrumentalities  
 36 of the United States, its possessions and territories, the Commonwealth of  
 37 Puerto Rico, the District of Columbia or a state or political subdivision of  
 38 a state.

39 (5) "NAIC" means the national association of insurance  
 40 commissioners.

41 (6) "ORSA summary report" means the report filed in accordance  
 42 with risk management and own risk and solvency assessment act.

43 (c) (1) An insurer or the insurance group of which the insurer is a

1 member shall, ~~no~~ not later than June 1 of each calendar year, submit to the  
2 commissioner a CGAD that contains the information described in  
3 subsection (e). Notwithstanding any request from the commissioner made  
4 pursuant to subsection (c)(3), if an insurer is a member of an insurance  
5 group, the insurer shall submit the report required by this section to the  
6 commissioner of the lead state for the insurance group, in accordance with  
7 the laws of the lead state, as determined by the procedures outlined in the  
8 most recent financial analysis handbook adopted by the national  
9 association of insurance commissioners.

10 (2) The CGAD must include a signature of the insurer or insurance  
11 group's chief executive officer or corporate secretary attesting to the best  
12 of that individual's belief and knowledge that the insurer has implemented  
13 the corporate governance practices and that a copy of the disclosure has  
14 been provided to the insurer's board of directors or the appropriate  
15 committee of the insurer thereof.

16 (3) An insurer not required to submit a CGAD under this section shall  
17 do so upon the commissioner's request.

18 (4) For purposes of completing the CGAD, the insurer or insurance  
19 group may provide information regarding corporate governance at the  
20 ultimate controlling parent level, an intermediate holding company level or  
21 the individual legal entity level or both, depending upon how the insurer or  
22 insurance group has structured its system of corporate governance. The  
23 insurer or insurance group is encouraged to make the CGAD disclosures at  
24 the level at which the insurer's or insurance group's risk appetite is  
25 determined, or at which the earnings, capital, liquidity, operations and  
26 reputation of the insurer are overseen collectively and at which the  
27 supervision of those factors are coordinated and exercised, or the level at  
28 which legal liability for failure of general corporate governance duties  
29 would be placed. If the insurer or insurance group determines the level of  
30 reporting based on these criteria, it shall indicate which of the three criteria  
31 was used to determine the level of reporting and explain any subsequent  
32 changes in level of reporting.

33 (5) The review of the CGAD and any additional requests for  
34 information shall be made through the lead state as determined by the  
35 procedures within the most recent financial analysis handbook referenced  
36 in subsection (c)(1).

37 (6) Insurers providing information substantially similar to the  
38 information required by this section in other documents provided to the  
39 commissioner, including proxy statements filed in conjunction with other  
40 state or federal filings or other requirements provided to the commissioner,  
41 shall not be required to duplicate that information in the CGAD, but shall  
42 only be required to cross reference the document in which the information  
43 is included.

1 (d) The commissioner is hereby authorized to adopt any rules and  
2 regulations as are necessary to carry out the provisions of this section.  
3 ~~Such rules and regulations shall be adopted no later than January 1, 2019.~~

4 (e) (1) The insurer or insurance group shall have discretion over the  
5 responses to the CGAD inquiries, provided the CGAD shall contain the  
6 material information necessary to permit the commissioner to gain an  
7 understanding of the insurer's or group's corporate governance structure,  
8 policies and practices. The commissioner may request additional  
9 information deemed material and necessary to provide the commissioner  
10 with a clear understanding of the corporate governance policies, the  
11 reporting or information system or controls implementing those policies.

12 (2) The CGAD shall be prepared consistent with all department of  
13 insurance rules and regulations and documentation. Documentation  
14 supporting information shall be maintained and made available upon the  
15 commissioner's request.

16 (f) (1) Documents, materials or other information, including the  
17 CGAD, in the possession or control of the department of insurance that are  
18 obtained, created by or disclosed to the commissioner or any other person  
19 under this section, are recognized by this state as being proprietary and  
20 containing trade secrets. All such documents, materials or other  
21 information shall be confidential by law and privileged, and shall not be  
22 subject to the open records act, K.S.A. 45-215 et seq., and amendments  
23 thereto, shall not be subject to subpoena and shall not be subject to  
24 discovery or admissible in evidence in any private civil action. However,  
25 the commissioner is authorized to use the documents, materials or other  
26 information in the furtherance of any regulatory or legal action brought as  
27 part of the commissioner's official duties. The commissioner shall not  
28 otherwise make the documents, materials or other information public  
29 without the prior written consent of the insurer. Nothing in this section  
30 shall be construed to require the written consent of the insurer before the  
31 commissioner may share or receive confidential documents, materials or  
32 other CGAD-related information pursuant to subsection (f)(3) to assist in  
33 the performance of the commissioner's regular duties. ~~The provisions of  
34 this subsection shall expire on July 1, 2022, unless the legislature reviews  
35 and reenacts this provision pursuant to K.S.A. 45-229, and amendments  
36 thereto, prior to July 1, 2022.~~

37 (2) Neither the commissioner nor any person who received  
38 documents, materials or other CGAD-related information, through  
39 examination or otherwise, while acting under the authority of the  
40 commissioner, or with whom such documents, materials or other  
41 information are shared pursuant to this section, shall be permitted or  
42 required to testify in any private civil action concerning any confidential  
43 documents, materials or information subject to subsection (f)(1).

1 (3) In order to assist in the performance of the commissioner's  
2 regulatory duties, the commissioner:

3 (A) May, upon request, share documents, materials or other CGAD-  
4 related information, including the confidential and privileged documents,  
5 materials or information subject to subsection (c)(1), including proprietary  
6 and trade secret documents and materials with other state, federal and  
7 international financial regulatory agencies, including members of any  
8 supervisory college as defined in K.S.A. 40-3308, and amendments  
9 thereto, with the NAIC and with third-party consultants pursuant to  
10 subsection (g), provided that the recipient agrees in writing to maintain the  
11 confidentiality and privileged status of the CGAD-related documents,  
12 material or other information and has verified in writing the legal authority  
13 to maintain confidentiality; and

14 (B) may receive documents, materials or other CGAD-related  
15 information, including otherwise confidential and privileged documents,  
16 materials or information, including proprietary and trade secret  
17 information or documents, from regulatory officials of other state, federal  
18 and international financial regulatory agencies, including members of any  
19 supervisory college as defined in the insurance holding company act and  
20 from the NAIC, and shall maintain as confidential or privileged any  
21 documents, materials or information received with notice or the  
22 understanding that it is confidential or privileged under the laws of the  
23 jurisdiction that is the source of the document, material or information.

24 (4) The sharing of information and documents by the commissioner  
25 pursuant to this section shall not constitute a delegation of regulatory  
26 authority or rulemaking, and the commissioner is solely responsible for the  
27 administration, execution and enforcement of the provisions of this  
28 section.

29 (5) No waiver of any applicable privilege or claim of confidentiality  
30 in the documents, proprietary and trade secret materials or other CGAD-  
31 related information shall occur as a result of disclosure of such CGAD-  
32 related information or documents to the commissioner under this section  
33 or as a result of sharing as authorized in this section.

34 (g) (1) The commissioner may retain, at the insurer's expense, third-  
35 party consultants, including attorneys, actuaries, accountants and other  
36 experts not otherwise a part of the commissioner's staff as may be  
37 reasonably necessary to assist the commissioner in reviewing the CGAD  
38 and related information or the insurer's compliance with this section.

39 (2) Any person retained under subsection (g)(1) shall be under the  
40 direction and control of the commissioner and shall act in a purely  
41 advisory capacity.

42 (3) The NAIC and third-party consultants shall be subject to the same  
43 confidentiality standards and requirements as the commissioner.

1 (4) As part of the retention process, a third-party consultant shall  
2 verify to the commissioner, with notice to the insurer, that it is free from a  
3 conflict of interest and that it has internal procedures in place to monitor  
4 compliance with a conflict and to comply with the confidentiality  
5 standards and requirements of this section.

6 (5) A written agreement with NAIC consultants or third-party  
7 consultants, or a combination of the same, governing sharing and use of  
8 information provided pursuant to this section shall contain the following  
9 provisions and expressly require the written consent of the insurer prior to  
10 making the information public as provided under this section:

11 (A) Specific procedures and protocols for maintaining the  
12 confidentiality and security of CGAD-related information shared with the  
13 NAIC or a third-party consultant pursuant to this section;

14 (B) procedures and protocols for sharing by the NAIC only with other  
15 state regulators from states in which the insurance group has domiciled  
16 insurers. The agreement shall provide that the recipient agrees in writing to  
17 maintain the confidentiality and privileged status of the CGAD-related  
18 documents, materials or other information and has verified in writing the  
19 legal authority to maintain confidentiality;

20 (C) a provision specifying that ownership of the CGAD-related  
21 information shared with the NAIC or a third-party consultant remains with  
22 the department of insurance and the NAIC or third-party consultant's use  
23 of the information is subject to the direction of the commissioner;

24 (D) a provision that prohibits the NAIC or a third-party consultant  
25 from storing the information shared pursuant to this act in a permanent  
26 database after the underlying analysis is completed;

27 (E) a provision requiring the NAIC or third-party consultant to  
28 provide prompt notice to the commissioner and to the insurer or insurance  
29 group regarding any subpoena, request for disclosure or request for  
30 production of the insurer's CGAD-related information; and

31 (F) a requirement that the NAIC or a third-party consultant consent to  
32 intervention by an insurer in any judicial or administrative action in which  
33 the NAIC or a third-party consultant may be required to disclose  
34 confidential information about the insurer shared with the NAIC or a third-  
35 party consultant pursuant to this section.

36 (h) Any insurer failing, without just cause, to timely file the CGAD  
37 as required in this section may be required, after notice and hearing, to pay  
38 a penalty for each day's delay, to be recovered by the commissioner, in  
39 accordance with any rules and regulations adopted by the commissioner.  
40 The commissioner shall remit all moneys received to the state treasurer in  
41 accordance with the provisions of K.S.A. 75-4215, and amendments  
42 thereto. Upon receipt of each such remittance, the state treasurer shall  
43 deposit the entire amount in the state treasury to the credit of the fees and

1 penalties fund.

2 (i) If any provision of this section other than subsection (f), or the  
3 application thereof to any person or circumstance, is held invalid, such  
4 determination shall not affect the provisions or applications of this section,  
5 which can be given effect without the invalid provision or application, and  
6 to that end the provisions of this section, with the exception of subsection  
7 (f), are severable.

8 (j) The first filing of the CGAD shall be in 2018.

9 ~~(k) The provisions of this section shall be effective on and after~~  
10 ~~January 1, 2018.~~

11 Sec. 4. K.S.A. 40-3805 is hereby amended to read as follows: 40-  
12 3805. (a) Every administrator shall maintain and make available to the  
13 payor complete books and records of all transactions performed on behalf  
14 of the payor. Such books and records shall be maintained in accordance  
15 with prudent standards of insurance record keeping and shall be  
16 maintained for a period of not less than five years from the date of their  
17 creation.

18 (b) The commissioner of insurance shall have access to such books  
19 and records for the purposes of examination, audit and inspection. Any  
20 documents, materials or other information in the possession or control of  
21 the commissioner that are furnished by a TPA, payor, insurance producer  
22 or an employee or agent thereof acting on behalf of the TPA, payor or  
23 insurance producer or obtained in an investigation, shall be confidential by  
24 law and privileged, shall not be subject to the open records act, shall not be  
25 subject to subpoena, and shall not be subject to discovery or admissible in  
26 evidence in any private civil action. The commissioner is authorized to use  
27 such documents, materials or other information in the furtherance of any  
28 regulatory or legal action brought as a part of the commissioner's official  
29 duties. ~~The provisions of this paragraph shall expire on July 1, 2022,~~  
30 ~~unless the legislature reviews and reenacts this provision prior to July 1,~~  
31 ~~2022.~~

32 (c) Neither the commissioner nor any person who receives  
33 documents, materials or other information while acting under the authority  
34 of the commissioner shall be permitted or required to testify in any private  
35 civil action concerning confidential documents, materials or information  
36 subject to subsection (b).

37 (d) In order to assist in the performance of the commissioner's duties,  
38 the commissioner may:

39 (1) Share documents, materials or other information, including the  
40 confidential and privileged documents, materials or other information  
41 subject to this section, with other state, federal and international regulatory  
42 agencies, the NAIC, its affiliates or subsidiaries and with state, federal and  
43 international law enforcement authorities, provided the recipient agrees to

1 maintain the confidentiality and privileged status of the document,  
2 material or other information; and

3 (2) may receive documents, materials or information, including  
4 otherwise confidential and privileged documents, materials or information,  
5 from the NAIC, its affiliates or subsidiaries and from regulatory and law  
6 enforcement officials of other foreign or domestic jurisdictions, and shall  
7 maintain as confidential or privileged any document, material or  
8 information received with notice or the understanding that it is confidential  
9 or privileged under the laws of the jurisdiction that is the source of the  
10 document, material or information.

11 (e) No waiver of any applicable privilege or claim of confidentiality  
12 in the documents, materials or information shall occur as a result of  
13 disclosure to the commissioner under this section.

14 (f) Nothing in this section shall prohibit the commissioner from  
15 releasing final, adjudicated actions, including for cause terminations that  
16 are open to public inspection pursuant to the open records act, to a  
17 database or other clearinghouse service maintained by the NAIC, its  
18 affiliates or subsidiaries.

19 (g) The payor shall own the records generated by the administrator  
20 pertaining to the payor, however, the administrator shall retain the right to  
21 continuing access to books and records to permit the administrator to  
22 fulfill all of its contractual obligations to insured parties, claimants and the  
23 payor, and its obligations to maintain records available to the  
24 commissioner.

25 (h) In the event the payor and the administrator cancel their  
26 agreement, notwithstanding the provisions of subsection (a), the  
27 administrator may, by written agreement with the payor, transfer all  
28 records to a new administrator rather than retain them for five years. In  
29 such cases, the new administrator shall acknowledge, in writing, that it is  
30 responsible for retaining the records of the prior administrator as required  
31 in subsection (a).

32 Sec. 5. K.S.A. 2021 Supp. 50-1124 is hereby amended to read as  
33 follows: 50-1124. (a) (1) On or before April 1, of each year, each licensee  
34 shall file with the commissioner an annual report relating to credit services  
35 organization business conducted by the licensee during the preceding  
36 calendar year. The annual report shall be on a form prescribed by the  
37 commissioner.

38 (2) The information contained in the annual report shall be  
39 confidential and may be published only in composite form. ~~The provisions~~  
40 ~~of this paragraph shall expire on July 1, 2022, unless the legislature~~  
41 ~~reviews and reenacts the provision prior to July 1, 2022.~~

42 (b) Within 15 calendar days of any of the following events, a licensee  
43 shall file a written report with the commissioner describing the event and

1 its expected impact on the licensee's business:

- 2 (1) The filing for bankruptcy or reorganization by the licensee;
  - 3 (2) the institution of a revocation, suspension or other proceeding
  - 4 against the licensee by a governmental authority that is related to the
  - 5 licensee's credit services organization business in any state;
  - 6 (3) a felony conviction of the licensee or any of its owners, officers,
  - 7 principals, directors, partners, members or debt management counselors;
  - 8 (4) a change in the licensee's name or legal entity status; and
  - 9 (5) the addition or loss of any owner, officer, partner or director.
- 10 (c) If a licensee fails to make any report required by this section to the
- 11 commissioner, the commissioner may require the licensee to pay a late
- 12 penalty of \$100 for each day the report is overdue.

13 Sec. 6. K.S.A. 2021 Supp. 50-1128 is hereby amended to read as

14 follows: 50-1128. This act shall be administered by the commissioner. In

15 addition to other powers granted by this act, the commissioner, within the

16 limitations provided by law, may exercise the following powers:

- 17 (a) Adopt, amend and revoke rules and regulations as necessary to
- 18 carry out the intent and purpose of this act.
- 19 (b) Make any investigation and examination of the operations, books
- 20 and records of a credit services organization, as the commissioner deems
- 21 necessary to aid in the enforcement of this act.

22 (1) The commissioner, or the commissioner's designee, shall have

23 free and reasonable access to the offices, places of business and all records

24 of the licensee that relate to the debt management or credit services

25 organization business. The commissioner may designate persons,

26 including comparable officials of the state in which the records are located,

27 to inspect the records on the commissioner's behalf.

28 (2) The commissioner may charge reasonable costs of investigation,

29 examination and administration of this act, to be paid by the applicant or

30 licensee, in such amounts as the commissioner may determine to be

31 sufficient to meet the budget requirements of the commissioner for each

32 fiscal year. The commissioner may maintain an action in any court to

33 recover such costs.

34 (c) To order any licensee or person to cease any activity or practice

35 which the commissioner deems to be deceptive, dishonest, or a violation of

36 this act, or of other state or federal law, or unduly harmful to the interests

37 of the public.

38 (d) (1) Exchange any information regarding the administration of this

39 act with any agency of the United States or any state which regulates the

40 applicant or licensee or administers statutes, rules and regulations or

41 programs related to debt management or credit services organization laws.

42 (2) Examination reports and correspondence regarding such reports

43 made by the commissioner or the commissioner's designees shall be

1 confidential. The commissioner may release examination reports and  
2 correspondence regarding the reports in connection with a disciplinary  
3 proceeding conducted by the commissioner, a liquidation proceeding or a  
4 criminal investigation or proceeding. Additionally, the commissioner may  
5 furnish to federal or other state regulatory agencies or any officer or  
6 examiner thereof, a copy of any or all examination reports and  
7 correspondence regarding the reports made by the commissioner or the  
8 commissioner's designees. ~~The provisions of this paragraph shall expire on  
9 July 1, 2022, unless the legislature reviews and reenacts this provision  
10 prior to July 1, 2022.~~

11 (e) Disclose to any person or entity that an applicant's or licensee's  
12 application or license has been denied, suspended, revoked or refused  
13 renewal.

14 (f) Require or permit any person to file a written statement, under  
15 oath or otherwise as the commissioner may direct, setting forth all the facts  
16 and circumstances concerning any apparent violation of this act, any rule  
17 and regulation promulgated hereunder, or any order issued pursuant to this  
18 act.

19 (g) Receive, as a condition in settlement of any investigation or  
20 examination, a payment designated for consumer education to be  
21 expended for such purpose as directed by the commissioner.

22 (h) Delegate the authority to sign any orders, official documents or  
23 papers issued under or related to this act to the deputy of consumer and  
24 mortgage lending in the office of the state bank commissioner.

25 (i) Require fingerprinting of any licensee, agent acting on behalf of a  
26 licensee or other person as deemed appropriate by the commissioner, or  
27 the commissioner's designee. The commissioner, or commissioner's  
28 designee, may submit such fingerprints to the Kansas bureau of  
29 investigation, federal bureau of investigation or other law enforcement  
30 agency for the purposes of verifying the identity of such persons and  
31 obtaining records of their criminal arrests and convictions. For purposes of  
32 this section and in order to reduce the points of contact that the federal  
33 bureau of investigation may have to maintain with the individual states,  
34 the commissioner may use the nationwide mortgage licensing system and  
35 registry as a channeling agent for requesting information from and  
36 distributing information to the department of justice or any governmental  
37 agency.

38 (j) Use the nationwide mortgage licensing system and registry as a  
39 channeling agent for requesting and distributing information regarding  
40 credit services organization licensing to and from any source so directed  
41 by the commissioner.

42 (k) Establish relationships or contracts with the nationwide mortgage  
43 licensing system and registry or other entities to collect and maintain

1 records and process transaction fees or other fees related to applicants,  
2 licensees or other persons subject to this act, and to take other such actions  
3 as may be reasonably necessary to participate in the nationwide mortgage  
4 licensing system and registry.

5 (l) Charge, establish and collect from licensees such fees as are  
6 necessary and in such amounts as the commissioner may determine to be  
7 sufficient to meet the expense requirements of the commissioner in  
8 administering this act.

9 (m) Seize and distribute a licensee's trust account funds to protect  
10 consumers and the public interest.

11 (n) For the purpose of any examination, investigation or proceeding  
12 under this act, the commissioner or the commissioner's designee may  
13 administer oaths and affirmations, subpoena witnesses, compel such  
14 witnesses' attendance, adduce evidence and require the production of any  
15 matter which is relevant to the examination or investigation, including the  
16 existence, description, nature, custody, condition and location of any  
17 books, documents or other tangible things and the identity and location of  
18 persons having knowledge of relevant facts, or any other matter reasonably  
19 calculated to lead to the discovery of relevant information or items.

20 (o) To enter into any informal agreement with any person for a plan  
21 of action to address violations of this act. The adoption of an informal  
22 agreement authorized by this subsection shall not be subject to the  
23 provisions of the Kansas administrative procedure act or the Kansas  
24 judicial review act. Any informal agreement authorized by this subsection  
25 shall not be considered an order or other agency action, and shall be  
26 considered confidential examination material pursuant to K.S.A. 50-  
27 1128(d), and amendments thereto. All such examination material shall be  
28 confidential by law and privileged, shall not be subject to the open records  
29 act, shall not be subject to subpoena and shall not be subject to discovery  
30 or admissible in evidence in any private civil action. ~~The provisions of this  
31 subsection shall expire on July 1, 2022, unless the legislature reviews and  
32 reenacts this provision prior to July 1, 2022.~~

33 (p) Issue, amend and revoke written administrative guidance  
34 documents in accordance with the applicable provisions of the Kansas  
35 administrative procedure act.

36 Sec. 7. K.S.A. 40-2,203, 40-3805 and 40-6011 and K.S.A. 2021  
37 Supp. 9-2216a, 22-4620, 50-1124 and 50-1128 are hereby repealed.

38 Sec. 8. This act shall take effect and be in force from and after its  
39 publication in the statute book.