

SESSION OF 2009

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 163**

As Amended by House Committee on  
Financial Institutions

**Brief\***

SB 163, as amended, would amend the Kansas Consumer Protection Act (KCPA) to establish definitions for the terms, “lender” and “mortgage trigger lead” and to establish a deceptive act or practice under the Act. A “mortgage trigger lead” would mean a consumer report obtained under the federal Fair Credit Reporting Act where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit.

The bill also would require that in oral and written solicitations for products or services based on a mortgage trigger lead, the solicitation must clearly and conspicuously state that the solicitor is not affiliated with the lender or broker with which the customer initially applied, and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied. Further requirements for written solicitations would define “clear and conspicuous” to include legible type in contrast by typography, layout or color with other printing on the first page of correspondence. Additionally, any solicitor making either an oral or written solicitation would be required to be in compliance with the provisions of the Kansas Mortgage Business Act, unless otherwise exempted from the Act, and any other law or regulation. Failure to comply with this requirement would be considered a deceptive act or practice under the KCPA.

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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>

The bill also would specify that any consumer report on an applicant obtained by a lender with whom the applicant has initially applied for credit or who holds or services an existing extension of credit of the applicant who is the subject of the report is not considered a mortgage trigger lead.

## **Background**

The bill was introduced at the request of the Heartland Community Bankers Association whose representative indicated that the bill requires greater disclosures to consumers by users of mortgage trigger leads and rather than providing prohibitions, attempts to ensure that consumers are educated about who is making an unsolicited offer of mortgage credit. Written testimony in support of the bill was provided by the Kansas Bankers Association and the Kansas Credit Union Association. There were no opponents present at the time of the Committee hearing.

The Senate Committee on Financial Institutions and Insurance recommended amendments to create an exclusion in the definition of mortgage trigger lead and to create separate requirements for written and oral solicitations for products and services based on a mortgage trigger lead.

The House Committee on Financial Institutions recommended an amendment to clarify the application of the Kansas Mortgage Business Act to mortgage trigger lead solicitors.

The fiscal note prepared by the Division of the Budget on the original bill states that the bill would have no fiscal effect on state operations.