

\*\*\* DRAFT - NOT YET FILED \*\*\*

1301:8-3-04

**Recordkeeping requirements.**

(A) All records required to be maintained by this rule shall be kept current and shall be available at all times during normal business hours for review by the division of financial institutions. Records shall be legible and maintained in a type size that is clearly readable without magnification, and in conformity with any specific typeface or font size that may be required by state or federal law. Except where otherwise provided by federal or state law, records shall be maintained in English. When records are allowed to be in a language other than English, the registrant, at its expense, shall be responsible for providing the division with a full and accurate translation. For purposes of recordkeeping, "current" means within thirty business days from the date of the occurrence of the event required to be recorded. Pursuant to section 1321.55 of the Revised Code, each registrant shall maintain the following records for all loans made pursuant to sections 1321.51 to 1321.60 of the Revised Code for at least two years after making the final entry on the records at either the registered premises or any other location approved in advance in writing by the superintendent of financial institutions.

(1) Copies of loan statements shall be maintained in one file, in chronological order, and kept available for examination. Loan statements shall disclose the following information:

(a) Principal borrower's name;

(b) Account number;

(c) Date of loan;

(d) An itemization of the charges for all credit related insurances and real estate related fees provided for by divisions (E) and (H) of section 1321.57 of the Revised Code; and

(e) Type of security.

(2) A ledger record shall be kept for each outstanding loan and loan paid in full within the last two years. The ledger record shall disclose the following information if applicable:

(a) Account number;

- (b) Principle borrower's name and residence address;
  - (c) Date of loan;
  - (d) Date finance charges being to accrue;
  - (e) Contractual rate of loan interest;
  - (f) Federal annual percentage rate;
  - (g) Loan origination charge;
  - (h) Original principal amount;
  - (i) Scheduled or precomputed interest;
  - (j) Total of payments;
  - (k) Type of security;
  - (l) Terms of repayment;
  - (m) Types and amounts of credit-related insurance;
  - (n) Unit default charge;
  - (o) A chronological entry of all debits, credits, payments and charges received, assessed or disbursed in connection with the loan, recorded thereon in an identifiable manner in order to show the actual date of receipt, assessment or disbursement and the balance due on the account;
  - (p) The amount of points charged to borrowers; and
  - (q) The amount of prepayment penalties charged to borrowers.
- (3) All loan agreements, mortgages, notes, disclosure forms, closing statements, security agreements and other documents signed by the obligors and taken in connection with loans made, shall be identified by the loan number and maintained in a separate file for each borrower.

- (4) The cash receipt and disbursement record, which shall include the account number and name of principal borrowers, all transactions involving either the receipt or disbursement of money on the account of borrowers, and the actual date of any the transaction, shall be made available to the division of financial institutions upon request.
- (5) An alphabetical index of all borrowers, comakers, guarantors and other obligors identified by account number shall be maintained with respect to all persons obligated on loans made under the provisions of sections 1321.51 to 1321.60 of the Revised Code.
- (6) A record of all loans in litigation shall be maintained in a litigation record. The litigation record shall be maintained for at least two years after the final entry has been made on the loan, be kept current, and include the following information:
  - (a) Loan number and name of principal borrower;
  - (b) Date litigation proceedings were initiated, the date and amount of the judgment and the judgment rate of interest;
  - (c) All original litigation records and documents, including pleadings, court orders, judgments and documentation of all court costs paid by the borrower to or through the registrant, or copies thereof shall be maintained in the file of original papers; and
  - (d) In cases of garnishment or attachment all notices served on employers or copies thereof and the amounts collected shall be maintained in the file of original loan papers.
- (7) A record of all loans in repossession and foreclosure shall be maintained in a repossession and foreclosure record. The repossession and foreclosure record shall be maintained for at least two years after the final entry has been made on the loan, be kept current, and include the following information:
  - (a) Loan number and name of principal borrower;
  - (b) Type of security foreclosed, attached, replevied, repossessed or surrendered;
  - (c) Date of repossession or foreclosure, date of sale of the security, the gross

amount received from the sale of the security, expenses deducted from the sale of the security and the amount of money applied to the outstanding loan balance;

- (d) All original repossession and foreclosure legal documents and other records, including bills for all expenses or copies thereof shall be maintained in the file of original loan papers; and
  - (e) In instances where the security is offered for private sale, there must be in the borrower's file not less than three bona fide written bids or appraisals in order to establish that the terms of sale were fair to the borrower. Where the security is offered for private or public sale, the sale must be consummated in compliance with the provisions of sections 1309.610, 1309.611, 1309.615, 1309.617, and 1309.624 of the Revised Code.
- (8) A credit life claims record shall be maintained for all loans upon which a credit life claim has been paid by the insurer. The credit life claims record shall be maintained for at least two years after the final entry has been made on the loan, be kept current, and include the following information:
- (a) Loan number and name of principal borrower;
  - (b) Date of death and certified copy of the death certificate or a copy thereof;
  - (c) Name and address of second beneficiary, if any; and
  - (d) Copies of all checks received or paid pertaining to a credit life claim.
- (9) Histories of nonpublished indices used to establish interest rates for variable rate loans shall be maintained for two years from date of usage, and shall be available for review by the division of financial institutions.
- (10) Each registrant conducting business as a lender shall maintain a log for business conducted with brokers. This log shall be kept in chronological order and shall contain the following information:
- (a) Amounts of fees paid to brokers;
  - (b) Names and addresses of brokers; and

(c) Dates of transactions with brokers.

- (B) A registrant may, for any business purpose, retain a document, paper, or other instrument or record by use of a process to record, copy, photograph, or store a representation of the original document, paper, or other instrument or record, if all of the following apply:
- (1) The process correctly and accurately copies or reproduces, or provides a means for correctly and accurately copying or reproducing, the original document, paper, or other instrument or record with regard to both its substance and appearance, except the copy or reproduction need not reflect the original paper or other medium, size, or color unless the medium, size or color is necessary to establish the authenticity of the original.
  - (2) The process does not permit the recording, copy, photographic image, or stored representation of the original document, paper, or other instrument or record to be altered or manipulated.
  - (3) Any medium the process uses to record, copy, photograph, or store a representation of the original document, paper, or other instrument or record is a durable medium for retaining and reproducing records.
  - (4) The process is used in the registrant's regular course of business.
  - (5) The superintendent has given written authorization in advance to the registrant to use the process.
  - (6) Written printouts or hard copies of the required data are readily available.
- (C) Due bills, receipts, invoices or other evidence shall be maintained in the file of original loan papers for any amount in excess of twenty dollars paid by the borrower to or through the registrant for any dishonored check, negotiable order of withdrawal, share draft or any other negotiable instrument.
- (D) Receipts, invoices, due bills or other evidence must be maintained in the file of original loan papers for any amount paid for the borrower and included in the principal amount of the loan which represents payment for title examination, abstract of title, title insurance, surveys, appraisal fees or preparation of the mortgage, settlement statement or other documents prepared in connection with a mortgage loan.

- (E) In order to reduce the risk of consumer fraud and related harms, including identity theft, registrants shall be required to comply with the provisions of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952, 15 U.S.C. 1681w as in effect on January 1, 2008, the "Gramm Leach Bliley Act," 113 Stat. 1138 (1999), 15 U.S.C. 6801 as in effect on January 1, 2008, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. 682, as in effect January 1, 2008, pertaining to the maintenance, security, and disposal of consumer information and records.
  
- (F) Before ceasing to conduct or discontinuing business as a registrant, the registrant shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this rule for the remainder of the period specified in this rule, and shall notify the division in writing of the exact address where the books and records will be maintained during the required period.
  
- (G) The division of financial institutions may suspend, revoke, or refuse to renew any registration issued by the division or bring any other authorized administrative enforcement action in accordance with section 1321.54 of the Revised Code against any person for failure to maintain records in accordance with section 1321.55 of the Revised Code or this rule.

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 1321.54(A)  
Rule Amplifies: 1321.55  
Prior Effective Dates: 7/1/2008, 3/18/1999, 11/13/1997, 4/1/1990, 2/1/1986,  
8/31/1981, 12/1/1979