

*** DRAFT - NOT YET FILED ***

1301:8-2-04

Recordkeeping requirements.

(A) All small loan 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 small loan licensee, 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 1321.09 of the Revised Code, each small loan licensee shall maintain the following paper records for all loans made pursuant to sections 1321.01 to 1321.19 of the Revised Code for at least a period of two years after making the final entry on any loan at either the licensed office or any other location approved in writing in advance by the superintendent of financial institutions.

(1) A ledger record shall be kept for each outstanding loan paid in full within the last two years upon which a chronological entry of all credits, debits, payments and charges received, assessed or disbursed in connection with the loan shall be recorded in an identifiable manner, in order to show the actual date of receipt, assessment or disbursement and the balance due on the account after each entry.

(2) A loan statement kept in chronological order shall be maintained in one file for at least two years after making the final entry for each loan made by the licensee. The loan statement shall disclose the following information if applicable:

- (a) Account number;
- (b) Principal borrower's name and residence address;
- (c) Date of loan;
- (d) Date finance charges begin 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) Names of all comakers, guarantors, or other obligors;
 - (n) Types and amount of credit-related insurance;
 - (o) Unit default charge;
 - (p) Credit bureau fee;
 - (q) Where and to whom hypothecated;
 - (r) An indication as to whether or not the loan is a "refinancing," as that term is defined in division (A)(11) of section 1321.01 of the Revised Code.
- (3) All loan agreements, 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) An alphabetical index of all borrowers, comakers, guarantors, and other obligors identified by account number shall be maintained with respect to all persons obligated for interest in excess of the current usury rate.
- (5) 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 licensee, 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.
- (6) A record of all loans in repossession shall be maintained in a repossession record. The repossession 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 attached, replevined, repossessed, or surrendered;
 - (c) Date of repossession, 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 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.

- (7) A credit life claim 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 a 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.
- (8) 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.
- (9) A log for business conducted with brokers that is maintained in chronological order and contains the following information:
 - (a) Amounts of fees paid to brokers;
 - (b) Names and addresses of brokers; and
 - (c) Dates of transactions with brokers.
- (B) 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 small loan licensee for any dishonored check, negotiable order of withdrawal, share draft or any other negotiable instrument.
- (C) A small loan licensee 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 small loan licensee's regular course of business.
 - (5) Written printouts or hard copies of the required data are readily available.
 - (6) The superintendent has given written authorization in advance to the small loan licensee to use the process.
- (D) Other methods of recording data, keeping records and keeping books, such as electronic or computerized methods, may be used in lieu of the methods described in this rule, provided written printouts or hard copies of the required data are readily available at each licensed location in a form approved, in advance, by the superintendent.
- ~~(D)~~(E) In order to reduce the risk of consumer fraud and related harms, including identity theft, small loan licensees shall be required to comply with ~~the provisions~~section 216 of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952 (amended 2010), 15 U.S.C. 1681w as in effect on ~~January 1, 2008~~December 1, 2014, the "Gramm Leach Bliley Act," 113 Stat. 1338 (1999)(amended 2010), 15 U.S.C. 6801 as in effect on ~~January 1, 2008~~December 1, 2014, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. Part 314 and 16 C.F.R. Part 682, as in effect on ~~January 1, 2008~~December 1, 2014, pertaining to the maintenance, security, and disposal of consumer information and records.
- ~~(E)~~(F) Before ceasing to conduct or discontinuing business as a small loan licensee, the small loan licensee 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.
- ~~(F) The division of financial institutions may suspend or revoke any small loan license~~

~~issued by the division or bring any other authorized administrative enforcement action against any person for failure to maintain records in accordance with section 1321.09 of the Revised Code or this rule.~~

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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