

1301:8-3-04

Recordkeeping requirements.

(A) Records must be kept current and be available at a registered location at all times during normal business hours for review by the superintendent. Records must 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 when otherwise provided by federal or state law, records must be maintained in English. When records are allowed to be in a language other than English, the registrant or qualified exempt entity, at its expense, shall be responsible for providing the superintendent with a full and accurate translation. For purposes of this rule, "current" means within thirty days from the date of the occurrence of the event required to be recorded. A registrant shall keep and preserve the following records:

(1) A sortable electronic spreadsheet which discloses the following fields of information:

(a) Principal borrower's name;

(b) Principal borrower's address or property address;

(c) Loan or account number;

(d) Type of the security for the loan;

(e) Date of loan;

(f) Amount financed;

(g) Date finance charges begin to accrue;

(h) Loan origination charge;

(i) Itemization of all additional fees or charges;

(j) Principal amount of the loan;

(k) Scheduled or precomputed interest;

(l) Number of payments;

(m) Contractual rate of interest;

(n) Federal annual percentage rate;

(o) Payment amount;

(p) Types and amounts of credit related insurance;

(q) Default charge

(r) Check collection charge;

(s) Any points charged to the borrower;

(t) Any charges for prepayment of the loan;

(u) Name and NMLS unique identifier of the mortgage loan originator who originated the residential mortgage loan, if applicable;

(v) The NMLS number of the registrant/exempt entity;

(w) Original lender's name if the registrant is collecting payments for a residential mortgage loan secured by a subordinate lien on real property;

(x) Lien position at consummation if the transaction involves a residential mortgage loan.

(2) Payment histories for each outstanding loan and each loan paid in full. The payment history shall disclose the following information:

(a) Principal borrower's name

(b) Loan or account number; and

(c) 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 loan or account.

(3) A file for each principal borrower which contains copies of all documents related to the loan transaction from origination through the final entry on the record. If there are multiple loan transactions with the same borrower, every loan transaction in the file must have a unique loan or account number.

(4) A sortable electronic spreadsheet of all loans in collection litigation which shall include the following fields of information:

(a) Principal borrower's name;

(b) Loan or account number;

(c) Date litigation proceedings were initiated;

(d) Name of court where proceedings were initiated;

(e) Indicate whether a final judgment has been entered, and if so include the following:

(i) Date of judgment;

(ii) Amount of judgment; and

(iii) The judgment rate of interest.

(f) In addition to the spreadsheet of litigation, copies of the complaints, court orders, settlements and judgments must be maintained in the principal borrower's file. In cases of garnishment or attachment, copies of all notices served on employers and amounts collected must be maintained in the principal borrower's file. The registrant must provide any additional court documents upon the request of the superintendent.

(5) A sortable electronic spreadsheet of all loans in repossession and foreclosure which shall include the following fields of information:

(a) Principal borrower's name;

(b) Loan or account number;

(c) Type of security foreclosed, attached, replevied, repossessed or surrendered;

(d) Date of repossession or foreclosure;

(e) Date of sale of the security;

(f) Gross amount received from the sale of the security;

(g) The amount of money applied to the outstanding loan balance; and

(h) In addition to the spreadsheet of loans in repossession and foreclosure, copies of all repossession and foreclosure legal documents and other records, including bills for all expenses shall be maintained in the principal borrower's loan file. In instances where the security is offered

for private sale, there must be in the principal borrower's file not less than three bona fide written bids or appraisals in order to establish that the terms of the sale were commercially reasonable 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.

(6) A sortable electronic spreadsheet of all loans upon which a credit life claim has been paid by the insurer which shall include the following fields of information:

(a) Principal borrower's name;

(b) Loan or account number;

(c) Date of death;

(d) Total amount paid by the insurance claim;

(e) Amount applied to the principal borrower's account; and

(f) In addition to the spreadsheet of loans upon which a credit life claim has been paid, a copy of the death certificate and documentation of all funds received or paid pursuant to the credit life claim shall be maintained in the principal borrower's file.

(7) A sortable electronic spreadsheet of all mortgage broker fees paid in connection with a subordinate lien residential mortgage loan which shall contain the following fields of information:

(a) Principal borrower's name;

(b) Loan or account number

(c) Date of loan;

(d) Name and address of mortgage broker.

(e) All broker fees paid.

(8) 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.

(9) General business records including, but not limited to, financial statements, check registers, bank statements, contracts with third party vendors relating to lending services, policy and procedures manual, and training materials.

(10) Any and all contracts or agreements relating to business relationships with businesses or individuals licensed by the division of financial institutions.

(11) A file of all advertisements.

(12) Histories of nonpublished indices used to establish interest rates for variable rate loans maintained for two years from date of usage.

(B) Where electronic records are required, a licensee may retain paper records as well. Where electronic records are required, the superintendent may, for good cause, allow a licensee to retain paper records in lieu of the electronic records required by this rule.

(C) In accordance with division (A) of section 1321.55 of the Revised Code, a registrant shall keep and preserve records pertaining to loans made under division (A)(1)(c) of section 1321.52 of the Revised Code for at least two years after the final entry on the record. The final entry on the record occurs when the loan is paid in full, charged off as uncollectable, sold, transferred or assigned to another, or discharged or otherwise settled by a final order issued in litigation governing the loan transaction. Notwithstanding the third sentence in division (A) of section 1321.55 of the Revised Code, a registrant shall keep and preserve records pertaining to residential mortgage loans in accordance with 12 C.F.R. 1026.25(c)(3) as in effect on November 30, 2016. The retention period for advertisements commences from the date the advertisements are published, broadcast, or disseminated.

(D) A registrant shall segregate the records pertaining to business conducted pursuant to sections 1321.51 to 1321.60 of the Revised Code from all other business records.

(E) A registrant shall notify the superintendent via the NMLS of a change of location of its records pertaining to business conducted pursuant to sections 1321.51 to 1321.60 of the Revised Code no later than five business days after the change.

(F) Where a registrant maintains electronic records in compliance with this rule, and those records are located outside of the state of Ohio, the registrant shall make the electronic records available to the division of financial institutions upon request, within the time frame provided by the division. The electronic records may be uploaded to a secure server for the purpose of the division conducting an examination of the registrant.

(G) In the event electronic records, books, records, data or documents of a registrant are located outside Ohio, and the superintendent determines that an in person examination is necessary, the registrant shall be required to pay the costs of the examination of the registrant outside the state of Ohio, including the proportionate cost of the salaries of division of financial institutions employees who conduct the examination. If the superintendent requests, the registrant shall advance to the superintendent the superintendent's estimate of the cost of the examination, with any unconsumed portion to be returned to the registrant. The registrant shall pay the cost of its examination, or any balance of the cost of its examination in the case of a registrant that advanced the estimated cost of its examination, within fourteen days after receiving an invoice for payment.

(H) Any records maintained on an electronic storage media or system shall meet all of the following requirements:

(1) The electronic storage media or system must preserve the records in a non-rewritable, non-erasable format;

(2) The electronic storage media or system must verify automatically the quality and accuracy of the storage media recording process;

(3) The electronic storage media or system must have the capacity to readily download indices and records preserved on the electronic storage media or system to any medium acceptable to the superintendent;

(4) Acceptable facilities and appropriate equipment shall, at all times during normal business hours, be available to the superintendent for immediate, easily readable projection or production of electronic storage media or system images and for producing easily readable images;

(5) Immediate facsimile enlargement shall be available upon the superintendent's request;

(6) A duplicate copy of the electronic record stored on any electronic media or system for the time required must be stored separately from the "original" electronic record;

(7) The electronic storage media or system must organize and index accurately all information maintained on both the original and duplicate storage media or system. At all times, a registrant must be able to have indices of the electronic records being stored available for examination by the superintendent. Each index must also be duplicated and the duplicate copies must be stored separately

from the original copy of each index. Original and duplicate indices shall be preserved for the time required for the indexed records;

- (8) An audit system will be in place providing for accountability regarding inputting of records and inputting any changes made to every original and duplicate record maintained and preserved. At all times, a registrant shall have the results of the audit system available for examination by the superintendent. The audit results shall be preserved for the time required for the audited records;
- (9) All information necessary to access records and indices stored on the electronic storage media or system, a copy of the physical and logical file format of the electronic storage media or system, the field format of all different information types written on the electronic storage media or system, together with the appropriate documentation and information necessary to access records and indices will be maintained, kept current and provided promptly to the superintendent upon request;
- (10) No paper documents produced or reproduced by means of an electronic storage media or system shall be destroyed until the conditions of this paragraph have been met with regard to each paper document that is to be destroyed; and
- (11) At the request of the division, the records shall be printed on paper for inspection or examination without cost to the division within forty-eight hours of the request. The superintendent may grant additional time for good cause shown upon receipt of a request for additional time from the registrant.
- (I) 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.
- (J) In order to reduce the risk of consumer fraud and related harms, including identity theft, registrants and qualified exempt entities shall be required to comply with 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 November 30, 2016, section 501 of the "Gramm Leach Bliley Act," 113 Stat. 1338 (1999) (amended 2010), 15 U.S.C. 6801 as in effect on January 12, 2014, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. Part 313 and 16 C.F.R. Part 682, as in effect November 30, 2016, pertaining to the maintenance, security, and disposal of consumer information and records.

(K) 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 of time 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. If there is a change in location of the records any time withing the time the former registrant is required to preserve the records under this rule, the former registrant shall notify the superintendent through the NMLS of the change in location.

Replaces: 1301:8-3-04

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Five Year Review (FYR) Dates:

Certification

Date

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