

187—16.9 (17A,536A) Licensee records.

16.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. The superintendent or the superintendent's duly appointed representative shall have the right to examine and investigate the books, accounts, and records wherever situated of all businesses authorized or conducted by a licensee licensed pursuant to Iowa Code chapter 536A. All books, accounts and records pertaining to businesses conducted pursuant to such licenses shall be made readily available to the examiners who may investigate without prior notice. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

16.9(2) *Required records.* A licensee shall keep, at its principal place of business, a loan register, account ledgers, an account ledger control, a loan file, an index, and a disbursement voucher.

16.9(3) *Loan register.*

a. The loan register shall contain the original entry and shall show for every loan the loan number, date of loan, name of borrower, nature of security, and amount of note.

b. The loan register shall be kept chronologically in the order the loans are made.

16.9(4) *Account ledger.*

a. An individual account ledger shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment including maturity date, amount financed, total of payments, face amount of note if different from amount financed or total of payments, cash advanced to borrower, cash advanced to pay balance of previous industrial loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal property securing the loan, nature of security, type and cost of each credit insurance policy, and type and cost of any other insurance policy.

b. All payments shall be credited upon the account ledger as of the date they are received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger; for example, if payment is made through the proceeds of an insurance claim or the sale of security, it shall be so designated. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger for a precomputed loan shall show the actual amount of the loan excluding the precomputed interest, the amount of the precomputed interest and the face amount of the note including interest, the amount and date of each payment applied to the note, the unpaid balance of the note after application of such payment and the type and amount of any additional charges collected or

assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, plus the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full or renewed account ledgers must also be filed in a similar manner and must be retained as a separate group from one banking division examination to the next. After the examination, these account ledgers may be filed in a permanent file.

16.9(5) *Account ledger control.* A record showing the total number of accounts and amount receivable for each type of business conducted shall be maintained in the licensed office. This record shall be posted either daily or weekly.

16.9(6) *Loan file.* A separate file shall be maintained for each borrower or loan account. Such file shall contain the promissory note, security agreement, wage assignment, and all other evidence of indebtedness or security pertaining to the loan except when the promissory note is kept in a separate promissory note file. Copies of the note and security agreement shall be substituted for the original documents if the loan has been sold, pledged or assigned as collateral security or if the original papers are in the custody of a court or agent for collection. If the promissory notes are not kept in the file of original papers and have not been sold, pledged or assigned as collateral security or placed in the custody of a court or agent for collection, then they must be kept in a promissory note file. When a borrower is also a comaker, guarantor, or endorser on another loan, the file of such borrower shall be cross-referenced to the other, unless such cross-referencing is included on the alphabetical record required by subrule 16.9(7) or the individual account ledger required by subrule 16.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number. No instrument or part thereof shall be left blank for completion after the borrower(s) has signed the instrument.

16.9(7) *Index.* An alphabetical index shall be maintained for each borrower, endorser, comaker, surety or other party currently indebted to the licensee or to any other business operated within the same office, room, suite or place of business. The index shall show the following information: the name of the obligor, the account number assigned to the obligor's indebtedness, the type of indebtedness (regulated loan, industrial loan, insurance, or any receivable), information showing whether the obligor is other than a borrower and sufficient information to locate all account ledgers.

16.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

16.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

16.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the industrial loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the industrial loan business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 536A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning industrial loan services directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

16.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) “a.” The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

[ARC 3078C , IAB 5/24/17, effective 7/1/17]