

187—18.16 (17A,535B) Licensee records.

18.16(1) *General record requirements.* A licensee must keep records that allow the administrator 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 36 months from the date of the final transaction with the borrower or a party in a real estate transaction.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the administrator upon request. Failure to produce such books and records within 30 days of the administrator'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 this requirement is met.

e. Effective January 1, 2012, mortgage bankers and mortgage brokers shall have the capability to provide information on the characteristics of loan originations as described in subrule 18.16(11) in an electronic format prescribed by the administrator within 30 days of:

(1) The end of each calendar quarter or some other regular interval determined by the administrator; or

(2) Notice from the administrator in the case of an examination.

18.16(2) *Required records.*

a. A mortgage broker shall keep an index, application log, and application files.

b. A mortgage banker shall keep an index, application log, application files, loan register, and loan files. If the mortgage banker also services loans, the mortgage banker must also keep account ledgers.

c. A mortgage banker who only services loans needs to keep only an index, a loan register, loan files, and account ledgers.

d. A closing agent shall keep the general business records outlined in subrule 18.16(9). The general business records are records relating to the closing agent's general business and do not include records relating to individual customer files. A closing agent shall also keep the following records relating to individual files:

(1) A closing register containing the information outlined in subrule 18.22(5); and

(2) A closing file containing the information outlined in subrule 18.22(6).

18.16(3) *Index.* All mortgage banker and mortgage broker records shall be accessible by the borrower's name (including the name of any endorser, comaker, or surety who is indebted to the lender) and account number.

18.16(4) *Application log.* A mortgage banker or mortgage broker licensee shall maintain an application log. The application log is a chronological list of applications received. The application log shall include the name of the applicant, date the application was completed, the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique NMLS&R identification number assigned to each, notes for action taken on applications (such as "approved," "denied," or "withdrawn"), and date of action. For approved applications, the application log shall show the date the loan closed and the name of the lender. For purposes of these rules, information from an applicant becomes an application when the licensee obtains the name and social security number of the applicant.

18.16(5) *Loan register.* A mortgage banker or mortgage broker licensee shall maintain a loan register. The loan register shall include the following information for every loan that is made: the date of the transaction, the name of the borrower, the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique NMLS&R identification number assigned to each, and the amount financed. The register shall be kept chronologically in the order the loans closed. The loan register may be combined with the application log.

18.16(6) *Application file.* A mortgage banker or mortgage broker licensee shall maintain an application file for each application received. The application file shall contain copies of the application

and any required disclosures. A copy of any adverse action taken on the application, including any documentation supporting that action such as an appraisal report or credit report, shall also be placed in the application file. The application file shall also contain the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique NMLS&R identification number assigned to each.

18.16(7) *Loan file.* A mortgage banker or mortgage broker licensee shall maintain a loan file for each loan made. The loan file consists of the application file, the appraisal report, underwriting verifications, the closing file described in subrule 18.22(6) including other supporting documentation, and documents from the loan closing. These documents include: note, mortgage, all truth-in-lending disclosures, and all Real Estate Settlement Procedures Act disclosures. The loan file shall also contain the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique NMLS&R identification number assigned to each.

18.16(8) *Account ledger.* A mortgage banker licensee shall maintain an account ledger for each loan that is serviced, which shall include the following information:

a. The name and address of the borrower, loan number, loan date, payment terms, maturity date, principal amount of loan, amount financed, total of payments, property listed as security, and distribution of the loan proceeds.

b. The transaction history. Payments shall be posted to the account ledger effective the date payments were received. Payment entries will show the date payment was received, the total amount of the payment, and a description of how the payment was applied to the borrower's account (amount applied to principal, interest, escrow, late fees, or additional written description). Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

c. The remaining balances due from the borrower, including principal, escrow, late fees, and other charges.

d. Any change to the interest rate and the effective date of that change.

e. Full descriptions of payments made outside the normal course of business, for example, payments made by the sale of security, insurance claim, or endorser. For any payments made by death claims on credit insurance, the date of death shall be noted in the account ledger.

f. When a loan is prepaid in full, the dates and amounts of any rebates made to the borrower including escrow rebates and the refunds of unearned insurance premiums.

18.16(9) *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 mortgage or real estate closing business of the licensee.

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

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 535B.

e. Copies of all contractual arrangements or understandings with third parties in any way relating to the provision of mortgage lending services or real estate closing services (including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, any investor contracts, any employment agreements, and any noncompete agreements).

f. 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 administrator or any other regulatory or supervisory authority.

g. Copies of all advertisements and solicitations concerning mortgage business 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.

18.16(10) Disposal of records. If the 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 this requirement is met.

18.16(11) Loan records required to be maintained electronically.

a. Effective January 1, 2012, mortgage bankers and mortgage brokers shall maintain the following records electronically in a format prescribed by the administrator:

(1) Information sufficient to identify the mortgage loan and the unique identifier of the mortgage loan originator, the mortgage broker (if applicable), and the lender for the loan.

(2) Information sufficient to enable a computation of key items in the federal truth-in-lending disclosures, including the annual percentage rate, the finance charge, and a schedule of payments, and any deviations between the final disclosures and the most recent disclosures issued prior to the final disclosures.

(3) Information included in the “good faith estimate” (GFE) disclosure required under the federal Real Estate Settlement Procedures Act, including the rate, the date of any interest rate lock, and an itemization of settlement charges and all broker compensation.

(4) Information included in the final HUD-1 Settlement Statement.

(5) Information related to the terms of each loan, including adjustable rate loan features (including timing of adjustments, indices used in setting rates, maximum and minimum adjustments, floors and ceilings of adjustments), the undiscounted interest rate (if maintained by the lender in an electronic format), penalties for late payments, and penalties for prepayment (including computation of the penalty amount, the duration of prepayment penalty, and the maximum amount of penalty).

(6) Information typically used in underwriting, including the appraised value of the property, the sales price of the property (if a purchase loan), each borrower’s income, the monthly payment amount, the housing debt-to-income ratio, the total debt-to-income ratio, and the credit score of each borrower.

(7) Information included in a Loan Application Register for mortgage lenders required to submit information pursuant to the federal Home Mortgage Disclosure Act.

b. Mortgage brokers shall provide information identified in paragraph 18.16(11)“a” unless such information is not prepared or known by the mortgage broker and the mortgage broker does not reasonably have access to the information in an electronic format.

c. The administrator shall permit mortgage bankers and mortgage brokers to utilize compatible third-party software to provide information required under this subrule.