

§ 53-184. Securing of information; records and reports; allocations of expense.

(a) Each licensee shall keep the books and records required by subsection (e) of this section relating to loans made under this Article, and the Commissioner, or an agent of the Commissioner, may examine these books and records at any reasonable time. These books and records may be maintained in the form of magnetic tape, magnetic disk, optical disk, or other form of computer, electronic, or microfilm media available for examination on the basis of computer printed reproduction, video display, or other medium acceptable to the Commissioner; however, these books and records shall be convertible into clearly legible tangible documents within a reasonable time. Any licensee having more than one licensed office may maintain these books and records at a location other than the licensed office location if the location is approved by the Commissioner. In accordance with any requirements imposed by the Commissioner, there shall be available to the borrower at each licensed location or other location convenient to the borrower, as designated by the licensee, complete loan information. These books and records of each licensed office shall be clearly segregated. When a licensee maintains its books and records outside of North Carolina, the licensee shall make them available for examination at the place where they are maintained and shall pay for all reasonable and necessary expenses incurred by the Commissioner in conducting an examination. Where the data processing for any licensee is performed by a person other than the licensee, the licensee shall provide to the Commissioner a copy of a binding agreement between the licensee and the data processor that expressly allows the Commissioner, or an agent of the Commissioner, access to examine the data processor's activities pertaining to a particular licensee to the same extent as if these services were being performed by the licensee on its own premises; and, notwithstanding G.S. 53-167, when billed by the Commissioner, the licensee shall reimburse the Commissioner for all costs and expenses incurred by the Commissioner in the examination.

(b) Each licensee shall file annually with the Commissioner on or before the 31st day of March for the 12 months' period ending the preceding December 31, reports on forms prescribed by the Commissioner. Reports shall disclose in detail and under appropriate headings the assets and liabilities of the licensee, the income, expense, gain, loss, and any other information required by the Commissioner. Reports shall be verified by the oath or affirmation of the owner, manager, president, vice-president, cashier, secretary, or treasurer of the licensee.

(c) If a licensee conducts another business or is affiliated with other licensees under this Article, or if any other situation exists under which allocations of expense are necessary, the licensee or licensees shall make the allocation according to appropriate and reasonable accounting principles.

(d) Repealed by Session Laws 1997-285, s. 3, effective January 1, 1998.

(e) A licensee shall maintain separate loan ledgers and accounts related to the making and collecting of loans under this Article. Allocation of expenses shall be made monthly according to generally accepted accounting principles. All books and records required by this section shall be retained for a period of two years after the last transaction consistent with the Federal Trade Commission Safeguards Rule, Part 314 of Title 16 of the Code of Federal Regulations. The books and records to be kept are as follows:

- (1) General ledger. – The general ledger shall be double entry, showing in detail the total of assets, liabilities, capital, income, and expenses. Each account shall be individually designated. No net or "wash" entries shall be made to any account. The general ledger shall be posted once each month, and the posting shall include all transactions through the last business day of the month. The actual posting shall be completed by the 30th day of each ensuing month for the previous month's business. A licensee shall maintain a description of each general ledger entry, including adjusting and closing entries. If any account on the general ledger does not agree with the corresponding account on the

- annual report to the Commissioner, a supplement to the annual report shall be furnished that reconciles or explains any differences.
- (2) Loan documents. – Documentation of all loans to each individual, including the date made, account number, loan amount, and date of cancellation.
 - (3) Judgments. – When a loan has been reduced to a final judgment, a licensee shall comply with all of the following provisions:
 - a. The individual account record maintained pursuant to subdivision (2) of this subsection shall be designated as a judgment account.
 - b. Payments received shall be identified and applied on the judgment account record.
 - c. The licensee shall maintain a copy of the final judgment and any other court documents that are necessary to disclose all of the following information:
 - 1. The final judgment date.
 - 2. The name of the licensee.
 - 3. The final judgment debtor's name.
 - 4. The date the suit was filed.
 - 5. The nature of the suit.
 - 6. The name and location of the court.
 - 7. The amount of the final judgment, specifying principal, interest charges, any fees authorized by statute, and court costs.
 - 8. The disposition of the case.
 - d. A licensee that charges a borrower for court costs incurred in obtaining a final judgment or pursuant to any ancillary proceeding related to an account shall itemize these costs on the individual account record and retain a receipt or other document showing the costs.
 - e. A licensee shall retain a copy of the sheriff's return of execution issued when property is sold pursuant to a final judgment.
 - (4) Repossessions. – When property is taken in accordance with the terms of a security agreement, by judicial process, or abandonment, the individual account record shall be designated as a repossession account and shall state when and how possession of the security was obtained and shall identify the proceeds of the sale of the property. The licensee shall also retain all of the following:
 - a. A copy of any agreement entered into with the borrower with respect to the terms of surrender.
 - b. A copy of the notice of sale, together with proof of mailing or personal delivery.
 - c. An inventory of the property taken, unless it appears on the notice of sale.
 - d. A signed bill of sale or a statement from the purchaser, or from the auctioneer if the sale was public, describing the collateral purchased and showing the amount paid.
 - e. Evidence that the sale took place on the date set forth in any notice of public sale, or a date after the date set forth in any notice of private sale, including a notice of any bids received.
 - f. A copy of a final accounting sent to the borrower, setting forth the disposition of the proceeds of sale and the principal balance due, if any, on the account prepared in accordance with G.S. 25-9-616.

- g. Paid receipts showing the costs incurred in the repossession and sale of the security that have been charged to the borrower. (1955, c. 1279; 1957, c. 1429, s. 4; 1961, c. 1053, s. 1; 1981, c. 561, s. 8; 1983, c. 68, s. 1; 1989, c. 17, s. 10; 1997-285, ss. 2, 3; 2001-519, s. 8; 2012-56, s. 12; 2023-61, s. 1.)