

75-6-38. Record retention.(a) ~~In any loan, lease, or credit sale not secured by an interest in real estate, the licensee or any person required to file notification with the administrator pursuant to K.S.A. 16a-6-202, and amendments thereto, shall retain the following:~~ When a licensee or consumer credit filer originates a consumer credit transaction, the licensee or consumer credit filer shall retain the following records, as applicable, for at least 36 months following the consummation date of the consumer credit transaction or, if the transaction is not consummated, the application date:

(1) ~~The following documents, as applicable, in any transaction closed in the name of the licensee or person filing notification, for at least 36 months following the closing date or, if the transaction is not closed, the application date:~~

~~(A)~~ The application;

~~(B)~~(2) the contract and any addendum or rider;

~~(C)~~(3) ~~the final truth in lending disclosure statement, including an itemization of the amount financed and an itemization of any prepaid finance charges, or consumer lease disclosures~~ all records and disclosures evidencing compliance with applicable federal lending and leasing laws and regulations;

~~(D)~~(4) any written agreements with the ~~borrower~~ consumer that describe rates or fees;

~~(E)~~(5) any documentation that aided the licensee or ~~person~~ consumer credit filer in making a ~~credit decision to engage in a consumer credit transaction~~, including a credit report, verification of employment, verification of income, bank statements, payroll records, and tax returns;

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~~(F)(6)~~ all paid invoices for credit report, filing, and any other closing costs;

~~(G)(7)~~ any credit insurance requests and insurance certificates;

~~(H)(8)~~ the assignment of the contract;

~~(I)(9)~~ phone log or any correspondence with associated notes detailing each contact with the consumer; all records of consumer correspondence, including written communications, electronic mail, instant messages and phone logs, any notes detailing contact with each consumer, and any phone conversation recordings or transcripts;

~~(J)(10)~~ all other agreements for products or services charged in connection with each transaction by the licensee, ~~person filing notification~~ consumer credit filer, or third party, including guaranteed asset protection ~~(GAP)~~ plans and warranties; and

~~(K)(11)~~ any other disclosures or statements required by law; and

~~(2)~~ the following documents, as applicable, in any transaction in which the licensee or person filing notification owns the account and directly or indirectly undertakes collection of payments or enforcement of rights against debtors, for at least 36 months after the final entry to each account:

(b) When a licensee or consumer credit filer directly or indirectly undertakes collection of payments or enforcement of rights against debtors in any consumer credit transaction, the licensee or consumer credit filer shall retain the following records, as applicable, for at least 36 months following the final entry to each account:

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~~(A)(1)~~ All records listed in subsection (a) if the licensee or consumer credit filer owns or takes assignment of the account;

~~(2)~~ a complete payment history, including the following:

~~(i)(A)~~ An explanation of transaction codes, if used;

~~(ii)(B)~~ the principal balance;

~~(iii)(C)~~ the payment ~~amount~~ amounts;

~~(iv)(D)~~ the payment ~~date~~ dates;

~~(v)(E)~~ the distribution of ~~the~~ each payment amount to interest, principal, and late fees or other fees; and

~~(vi)(F)~~ any other amounts that have been added to, or deducted from, a each consumer's account; and

~~(B)(3)~~ any other statements, disclosures, invoices, or information for each account, including the following:

~~(i)(A)~~ Documentation supporting any amounts added to a each consumer's account or evidence that a service was actually performed in connection with these amounts, ~~or both~~, including costs of collection, attorney's fees, skip tracing, retaking, or repossession fees;

~~(ii)(B)~~ loan modification agreements;

~~(iii)(C)~~ forbearance or any other repayment agreements;

~~(iv)(D)~~ subordination agreements;

~~(v)(E)~~ surplus or deficiency balance statements;

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- ~~(vi)(F)~~ default-related correspondence or documents;
- ~~(vii)(G)~~ evidence of sale of repossessed collateral;
- ~~(viii)(H)~~ the notice of the consumer's right to cure;
- ~~(ix)(I)~~ property insurance advance disclosure;
- ~~(x)(J)~~ force-placed property insurance;
- ~~(xi)(K)~~ notice and evidence of credit insurance premium refunds;
- ~~(xii)(L)~~ deferred interest;
- ~~(xiii)(M)~~ suspense accounts;
- ~~(xiv) phone log or any correspondence with associated notes detailing each contact between the servicer and the consumer; and~~(N) all records of correspondence with the consumer, including written communications, electronic mail, instant messages, phone logs, any notes detailing contact with the consumer, and any phone conversation recordings or transcripts; and
- ~~(xv)(O) any other product or service agreements; and~~
- ~~(C) documents related to the general servicing activities of the licensee, including the following:~~

(c) Each licensee and consumer credit filer shall retain any records relating to servicing activities of the licensee or consumer credit filer, including the records listed in this subsection, regarding any consumer credit transactions. The licensee or consumer credit filer shall retain the following records for at least the previous 36 months:

- ~~(i)(1)~~ Historical records for all adjustable rate indices used;

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(ii)(2) a log of all accounts sold, transferred, or assigned that details to whom the accounts were sold, transferred, or assigned;

(iii)(3) a log of all accounts in which repossession activity has been initiated;

(iv)(4) a log of all credit insurance claims and accounts paid by credit insurance; and

(v)(5) a schedule of servicing fees and charges imposed by the licensee, consumer credit filer, or a third party; and

(6) disclosures and agreements between the licensee or consumer credit filer and all servicers or sub-servicers the licensee or consumer credit filer uses to process any transactions.

(d) When a licensee or consumer credit filer purchases an account in a consumer credit transaction as defaulted debt or as a defaulted receivable, the licensee or consumer credit filer shall, in lieu of the requirements of subsections (a), (b), and (c), retain the following records relating to the purchased debts or receivables for at least 36 months following the purchase or final entry to each account, whichever is later:

(1) The consumer's first and last name;

(2) the consumer's social security number or other government-issued identification number, if obtained by the original creditor;

(3) the consumer's last known address;

(4) the originating creditor's name and address;

(5) evidence establishing the consumer's liability, which may include a copy of the signed contract, a copy of the most recent debt or receivable terms and conditions, or a copy of the last activity statement;

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(6) the account number;

(7) the unpaid balance due on the account along with an itemization of interest, fees, and payments, and any credits or adjustments;

(8) the date and amount of the consumer's last payment, if any;

(9) the date and amount of the last disbursement or draw from the account;

(10) sufficient information to calculate the dates of account delinquency and default;

(11) the date of charge-off; and

(12) a copy of a statement that reflects the unpaid balance at the time of charge-off.

(13) a copy of each bill of sale or other document evidencing the transfer of ownership of the debt or receivable from the initial sale by the original creditor to each successive owner, such that when the bills of sale or other documents are viewed in their totality they provide a complete and unbroken chain of title documenting the name and dates of ownership of the original creditor and each subsequent owner up to and including the buyer in the current sale;

(14) any settlement offers or agreements, whether or not accepted, between the consumer and the original creditor or between the consumer and any subsequent owner up to and including the buyer in the current sale;

(15) any paid-in-full notices or other documentation showing successful completion of a settlement, whether the settlement and its completion was between the consumer and the original creditor or between the consumer and any subsequent owner up to and including the buyer in the current sale; and

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(16) all records of consumer correspondence, including written communications, electronic mail, instant messages and phone logs, any notes detailing contact with each consumer, and any phone conversation recordings or transcripts.

(e) Affidavits or attestations that are not sworn or attested by the original consumer shall not be substituted for any of the requirements of subsection (d).

~~(b) In any loan secured by an interest in real estate, the licensee shall retain the following:~~

~~(1) The following documents, as applicable, in any mortgage loan in which the licensee does not close the transaction in the licensee's name, for at least 36 months following the closing date or, if the transaction is not closed, the application date:~~

~~(A) The application;~~

~~(B) the good faith estimate;~~

~~(C) the early truth in lending disclosure statement;~~

~~(D) any written agreements with the borrower that describe rates, fees, broker compensation, and any other similar fees;~~

~~(E) an appraisal performed by a Kansas licensed or Kansas certified appraiser completed within 12 months before the loan closing date, the total appraised value of the real estate as reflected in the most recent records of the tax assessor of the county in which the real estate is located, or, for a nonpurchase money real estate transaction, the estimated market value as determined through an automated valuation model, pursuant to K.S.A. 16a-1-301(6) and amendments thereto, acceptable to the administrator;~~

~~(F) the adjustable rate mortgage (ARM) disclosure;~~

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~~(G) the home equity line of credit (HELOC) disclosure statement;~~

~~(H) the affiliated business arrangement disclosure;~~

~~(I) evidence that the special information booklet, consumer handbook on adjustable rate mortgages, home equity brochure, reverse mortgage booklet, or any suitable substitute was delivered in a timely manner;~~

~~(J) the certificate of counseling for home equity conversion mortgages (HECMs);~~

~~(K) the loan cost disclosure statement for HECMs;~~

~~(L) the notice to the borrower for HECMs;~~

~~(M) phone log or any correspondence with associated notes detailing each contact with the consumer;~~

~~(N) any documentation that aided the licensee in making a credit decision, including a credit report, title work, verification of employment, verification of income, bank statements, payroll records, and tax returns;~~

~~(O) the settlement statement; and~~

~~(P) all paid invoices for appraisal, title work, credit report, and any other closing costs;~~

~~(2) the following documents, as applicable, in any transaction in which the licensee provides any money to fund the loan or closes the mortgage loan in the licensee's name, for at least 36 months from the closing date of the transaction:~~

~~(A) The high loan to value notice required by K.S.A. 16a-3-207 and amendments thereto;~~

~~(B) the final truth-in-lending disclosure statement, including an itemization of the amount financed and an itemization of any prepaid finance charges;~~

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- ~~(C) any credit insurance requests and insurance certificates;~~
- ~~(D) the note and any other applicable contract addendum or rider;~~
- ~~(E) a copy of the filed mortgage or deed;~~
- ~~(F) a copy of the title policy or search;~~
- ~~(G) the assignment of the mortgage and note;~~
- ~~(H) the initial escrow account statement or escrow account waiver;~~
- ~~(I) the notice of the right to rescind or waiver of the right to rescind;~~
- ~~(J) the special home ownership and equity protection act disclosures required by regulation Z in 12 CFR 226.32(c) and 226.34(a)(2), if applicable;~~
- ~~(K) the mortgage servicing disclosure statement and applicant acknowledgement;~~
- ~~(L) the notice of transfer of mortgage servicing;~~
- ~~(M) any interest rate lock in agreement or float agreement; and~~
- ~~(N) any other disclosures or statements required by law; and~~
- ~~(3) the following documents, as applicable, in any mortgage transaction in which the licensee owns the mortgage loan or the servicing rights of the mortgage loan and directly or indirectly undertakes collection of payments or enforcement of rights against debtors, for at least 36 months from the final entry to each account:~~
 - ~~(A) A complete payment history, including the following:~~
 - ~~(i) An explanation of transaction codes, if used;~~
 - ~~(ii) the principal balance;~~
 - ~~(iii) the payment amount;~~

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~~(iv) the payment date;~~

~~(v) the distribution of the payment amount to interest, principal, late fees or other fees, and escrow; and~~

~~(vi) any other amounts that have been added to, or deducted from, a consumer's account;~~

~~(B) any other statements, disclosures, invoices, or information for each account, including the following:~~

~~(i) Documentation supporting any amounts added to a consumer's account or evidence that a service was actually performed in connection with these amounts, including costs of collection, attorney's fees, property inspections, property preservations, and broker price opinions;~~

~~(ii) annual escrow account statements and related escrow account analyses;~~

~~(iii) notice of shortage or deficiency in escrow account;~~

~~(iv) loan modification agreements;~~

~~(v) forbearance or any other repayment agreements;~~

~~(vi) subordination agreements;~~

~~(vii) foreclosure notices;~~

~~(viii) evidence of sale of foreclosed homes;~~

~~(ix) surplus or deficiency balance statements;~~

~~(x) default-related correspondence or documents;~~

~~(xi) the notice of the consumer's right to cure;~~

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- ~~(xii) property insurance advance disclosure;~~
- ~~(xiii) force-placed property insurance;~~
- ~~(xiv) notice and evidence of credit insurance premium refunds;~~
- ~~(xv) deferred interest;~~
- ~~(xvi) suspense accounts;~~
- ~~(xvii) phone log or any correspondence with associated notes detailing each contact between the servicer and the consumer; and~~
- ~~(xviii) any other product or service agreements; and~~
- ~~(C) documents related to the general servicing activities of the licensee, including the following:~~
 - ~~(i) Historical records for all adjustable rate mortgage indices used;~~
 - ~~(ii) a log of all accounts sold, transferred, or assigned that details to whom the accounts were sold, transferred, or assigned;~~
 - ~~(iii) a log of all accounts in which foreclosure activity has been initiated;~~
 - ~~(iv) a log of all credit insurance claims and accounts paid by credit insurance; and~~
 - ~~(v) a schedule of servicing fees and charges imposed by the licensee or a third party.~~
- ~~(e)(f) In addition to meeting the requirements specified in subsections (a) and (b) through (e), each licensee or person filing notification consumer credit filer shall retain for at least the previous 36 months the documents related to the general business activities of the licensee or person filing notification consumer credit filer, which shall include the following:~~

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(1) Advertising records, including copies of printed advertisements or solicitations and those by internet or other electronic means;

(2) the business account check ledger or register;

(3) all financial statements, balance sheets, or statements of condition;

(4) a detailed list of all transactions originated, closed, purchased, or serviced; and

(5) a schedule of the licensee's fees and charges.

(g) As used in this article:

(1) "charge-off" means the time at which the original creditor has written off the debt or receivable and is no longer collecting from the consumer; and

(2) "licensee" and "consumer credit filer" includes assignees and servicers of consumer credit transactions and does not include supervised financial organizations. (Authorized by K.S.A.2025 Supp. 16a-6-104, as amended by 2009 SB 240, § 21; implementing K.S.A. 2025 Supp. 16a-2-304, as amended by 2009 SB 240, § 19; effective Oct. 2, 2009; amended P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Office of the State Bank Commissioner
Agency

Brock Roehler
Agency Contact

785-379-3892
Contact Phone Number

75-6-38
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?
- Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.
- No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

K.A.R. 75-6-38 is being amended to remove all mortgage provisions as these statutes moved to the KMBA. K.S.A. 9-2201 *et seq.* Currently, Subsection (a) and (c) apply to all supervised lenders and consumer credit filers regardless of what activity is being conducted. This regulation is now being split into 4 categories to specifically apply to each type of loan activity is being conducted. Subsection (c) will apply to everyone. Subsection (a) will only apply to supervised lenders and consumer credit providers that originate consumer credit transactions. Subsection (b) will only apply to supervised lenders and consumer credit providers that undertake collection of payments. A new subsection (d) will apply to supervised lenders and consumer credit providers that collect on defaulted debt. The end result of these new categories is to fine tune and reduce the bureaucratic retention of inapplicable records. A thorough listing of required records to be maintained makes it easier for an examined company to know what will be reviewed during an examination.

The federal truth in lending act requires retention of most of these records. Colorado has a similar record retention. Missouri, Nebraska, and Oklahoma do not specify the records that are required to be kept and will be reviewed during an examination.

Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

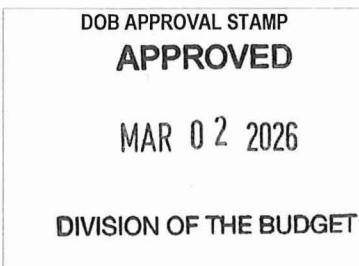
The proposed rules and regulations are neither mandated by federal law nor is it a requirement for participation in any federally subsidized or assisted program. The proposed rules and regulations work in conjunction with applicable federal laws. The requirements are mostly in line with the minimum federal law requirements with a few instances that exceed federal law that assist with an examination or provide document consumer protections as required by state law.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The proposed amendments are expected to have a negligible positive impact on business activities and growth. The current regulation requires every licensee and consumer credit filer to retain all documents, some of which are not applicable to a loan originator or a loan servicer. This regulation now applies the specific documents that are required to be retained for each activity. This will result in less document retention on documents that are not verified during an examination and result in an enhancement of business activities and growth due to a reduction in compliance costs.



B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

It is expected that compliance costs will slightly decrease for each supervised lender and consumer credit filer.

C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Supervised lenders, consumer credit filers, document retention companies

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

It is expected that supervised lenders and consumer credit filers will find it easier to buy and sell consumer credit transactions due to the reduction in document retention requirements. No expected cost.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

N/A.

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

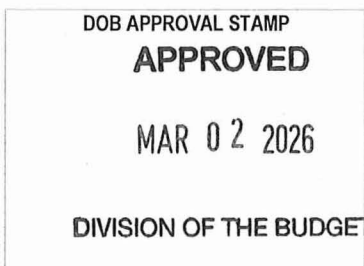
Costs to Affected Businesses – \$0

Costs to Local Governmental Units – \$0

Costs to Individuals – \$0

Total Annual Costs – \$0

(sum of above amounts)



Give a detailed statement of the data and methodology used in estimating the above cost estimate.

[Click here to enter agency response.](#)

- Yes If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- No
- Not Applicable

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

\$0

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

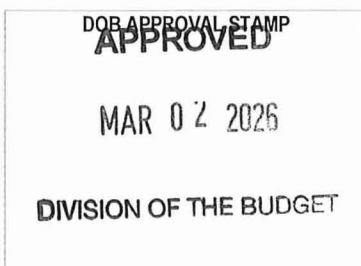
\$0

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Revenues of cities, counties or school districts will not be affected. The amendments made are intended to streamline, amend, delete or incorporate regulations to ensure continuous compliance by the licensee and protection for the consumer.

- H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

For this round of regulation review, we requested comments from Rocket Mortgage, OneMain Financial, and Mortgage Bankers Association. No objections or concerns were noted. No local government unit, state agency, or institution was consulted.



Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
 No If no, skip the remainder of Section IV.

A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.

[Click here to enter agency response.](#)

B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.

[Click here to enter agency response.](#)

C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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