

17-24-4 Record retention. (a) In any mortgage transaction in which the licensee does not close the mortgage loan in the licensee's name, the licensee shall retain the following documents, as applicable, for at least 36 months following the loan closing date, or if the loan is not closed, the loan application date:

(1) The application;

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

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

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

(5) ~~(3)~~ 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 acceptable automated valuation model, ~~pursuant to K.S.A. 16a-1-301(6) and amendments thereto~~ acceptable to the commissioner;

(6) ~~(4)~~ the signed Kansas ~~acknowledgment~~ notice as required by K.S.A. 2024 Supp. 9-2208(b), and amendments thereto, and K.A.R. 17-24-1;

(7) ~~(5)~~ ~~the adjustable rate mortgage (ARM) disclosure;~~ all records and disclosures evidencing compliance with applicable federal lending laws and regulations;

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~~(8) the home equity line of credit (HELOC) disclosure statement;~~

~~(9) the affiliated business arrangement disclosure;~~

~~(10) 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;~~

~~(11) the certificate of counseling for home equity conversion mortgages (HECMs);~~

~~(12) the loan cost disclosure statement for HECMs;~~

~~(13) the notice to the borrower for HECMs;~~

~~(14)(6) phone log or any correspondence with associated notes detailing each contact with the consumer; records of all consumer correspondence, including all written communications, electronic mail, instant messages and phone logs, any notes detailing contact with each consumer, and any phone conversation recordings or transcripts;~~

~~(15)(7) 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;~~

~~(16) the settlement statement; and~~

~~(8) evidence of all compensation paid to loan originators and the compensation agreement that governs those payments; and~~

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DEPT. OF ADMINISTRATION

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~~(17)~~(9) all paid invoices for appraisal, title work, credit report, and any other closing costs.

(b) In any mortgage transaction in which the licensee provides any money to fund the loan or closes the mortgage loan in the licensee's name, the licensee shall retain both the documents required in subsection (a) and the following documents, as applicable, for at least 36 months from the mortgage loan closing date:

(1) The high loan-to-value notice required by K.S.A. ~~16a-3-207~~2024 Supp. 9-2232, and amendments thereto;

~~(2) the final truth in lending disclosure statement, including an itemization of the amount financed and an itemization of any prepaid finance charges;~~

~~(3)~~ any credit insurance requests and insurance certificates;

~~(4)~~(3) the note~~(s)~~ and any other applicable contract addendum or rider;

~~(5)~~(4) a copy of the filed mortgage~~(s)~~ or deed~~(s)~~;

~~(6)~~(5) a copy of the title policy or search; and

~~(7)~~(6) the assignment of the mortgage and note;

~~(8) the initial escrow account statement or escrow account waiver;~~

~~(9) the notice of the right to rescind or waiver of the right to rescind, if applicable;~~

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DEPT. OF ADMINISTRATION

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~~(10) the special home ownership and equity protection act disclosures required by regulation Z in 12 CFR 226.32(e) and 226.34(a)(2), as amended and in effect on October 1, 2009, if applicable;~~

~~(11) the mortgage servicing disclosure statement and applicant acknowledgement;~~

~~(12) the notice of transfer of mortgage servicing;~~

~~(13) any interest rate lock in agreement or float agreement; and~~

~~(14) any other disclosures or statements required by law.~~

(c) 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~~engages in mortgage servicing or owns the mortgage servicing rights, the licensee shall retain the documents required in subsections (a) and (b) and the following documents, as applicable, for at least 36 months from the final entry to each account:

~~(1) A complete payment history, including the following:~~

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

~~(B) the principal balance;~~

~~(C) the payment amount;~~

~~(D) the payment date;~~

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DEPT. OF ADMINISTRATION

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~~(E) the distribution of the payment amount to the following:~~

~~(i) Interest;~~

~~(ii) principal;~~

~~(iii) late fees or other fees; and~~

~~(iv) escrow; and~~

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

All records and disclosures evidencing compliance with applicable federal lending laws and regulations;

(2) the note(s) and any other applicable contract addendum or rider;

(3) a copy of the filed mortgage(s) or deed(s);

(4) servicing history;

~~(2)(5)~~ any other statements, disclosures, invoices, or information for each account, including, but not limited to, the following:

(A) Documentation supporting any amounts added to a 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, property inspections, property preservations, and broker price opinions;

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DEPT. OF ADMINISTRATION

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- (B) ~~annual escrow account statements and related escrow account analyses;~~
- (C) ~~notice of shortage or deficiency in escrow account;~~
- (D) ~~loan modification agreements;~~
- (E)(C) ~~forbearance or any other repayment~~ loan modification agreements;
- (F)(D) subordination agreements;
- (G)(E) foreclosure notices;
- (H)(F) evidence of sale of foreclosed homes;
- (I)(G) surplus or deficiency balance statements;
- (J)(H) default-related correspondence or documents;
- (K)(I) the notice of the consumer's right to cure;
- (L)(J) any property insurance advance disclosure;
- (M)(K) force-placed property insurance policies;
- (N)(L) notice and evidence of credit insurance premium refunds;
- (O) ~~deferred interest;~~
- (P) ~~suspense accounts;~~

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DEPT. OF ADMINISTRATION

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

~~(R)(N)~~ any other product or service agreements; and

~~(3)(6)~~ documents related to the general servicing activities of the licensee, including, but not limited to, the following:

(A) Historical records for all adjustable rate mortgage indices used;

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

(C) a log of all accounts in which foreclosure activity has been initiated;

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

(E) a schedule of servicing fees and charges imposed by the licensee or a third party.

(d) In addition to meeting the requirements specified in subsections (a), (b), and (c), each licensee shall retain for at least the previous 36 months the documents related to the general business activities of the licensee, which shall include the following:

(1) Advertising records, including copies of advertisements or solicitations made by print or electronic means, including through the internet;

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(2) the business account check ledger or register;

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

(3)(4) all escrow account ledgers and related deposit statements as required by K.S.A. 9-2213, and amendments thereto;

(4) a journal of mortgage transactions as required by K.S.A. 9-2216a and amendments thereto;

(5) all lease agreements for Kansas locations principal place of business and branch offices; and

(6) a schedule of the licensee's fees and charges. (Authorized by K.S.A. 2024 Supp. 9-2209, as amended by 2009 SB-240, §9; implementing K.S.A. 20082024 Supp. 9-2208, K.S.A. 9-2213, and K.S.A. 20082024 Supp. 9-2216, as amended by 2009 SB-240, §12; effective Oct. 31, 2003; amended Oct. 2, 2009; amended T-\_\_\_\_\_.)

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