

## 209 CMR 48.00: LICENSEE RECORD KEEPING

### Section

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#### 48.01: Purpose and Scope

The purpose of 209 CMR 48.00 *et seq.* is to establish procedures and requirements, pursuant to M.G.L. [c. 93, § 24D](#); c. 140, § 97; M.G.L. c. 255B, § 3; M.G.L. c. 255C, § 6; M.G.L. c. 255D, § 3; and M.G.L. c. 255E, § 8, applicable to record keeping by persons who are licensed under these chapters. St. 1996, c. 118 amended the aforementioned chapters of the General Laws by deleting any provision that books, records and accounts, necessary to determine compliance with laws and regulations, be kept and used within the Commonwealth. Moreover, St. 1996, c. 118 authorized travel outside of the Commonwealth for the purpose of conducting examinations of persons licensed under the aforementioned chapters as well as modern forms of record keeping as described in 209 CMR 48.05.

#### 48.02: Definitions

The following words as used in 209 CMR 48.00, unless the context requires otherwise, shall have the following meanings:--

Commissioner, the Commissioner of Banks.

Examination, the examination or inspection required by applicable statute.

Licensee, any person who is licensed as a [debt collector as defined in M.G.L. c. 93, § 24](#); a small loan [agency company](#) under the provisions of M.G.L. c. 140, §§ 96 through 114A; a sales finance company as defined in M.G.L. c. 255B; a premium finance agency as defined in M.G.L. c. 255C; a sales finance company as defined in M.G.L. c. 255D; and a mortgage lender or a mortgage broker as defined in M.G.L. c. 255E.

Person, a natural person or an organization including a corporation, a limited liability company or partnership, partnership, association, cooperative or trust.

#### 48.03: Books and Records

- (1) Each Licensee shall keep and use its books, records, and accounts in a manner which will allow the Commissioner to determine whether the Licensee is complying with the provisions of M.G.L. [c. 93, §§ 24 through 28](#); M.G.L. c. 140, §§ 96 through 114A, M.G.L. c. 255B, M.G.L. c. 255C, M.G.L. c. 255D, or M.G.L. c. 255E and ~~applicable state and federal laws and regulations~~ [all other provisions applicable to the conduct of the licensed business](#).
- (2) A Licensee shall maintain all books, records and accounts required by its governing statute. These shall include a complete customer account history for each transaction including but not limited to terms and conditions of the agreement, payment dates, maturity or final payment due date, refunds, refinancing date, collection or legal action taken.

#### 48.04: Location of Books and Records

Each Licensee shall keep and use its books, records, and accounts within the Commonwealth, except, however, that with the prior approval by the Commissioner of a written plan, a Licensee may keep such books, records, and accounts at a location, or locations, outside of the Commonwealth. Such written plan shall contain:

- (1) an agreement to provide access, within 72 hours of an official request, to any requested books, records, and accounts to a suitable and mutually agreed upon location within the Commonwealth for the purpose of examination, or
- (2) an agreement to separately reimburse the Commissioner for appropriate and necessary expenses for an examiner, or examiners, to conduct an examination at a licensee's location outside of the Commonwealth. Such reimbursement will be only for travel expenses above those normally necessary to conduct an examination within the Commonwealth ~~and will be assessed in accordance with the rules and regulations prescribed by the Comptroller of the Commonwealth.~~

#### 48.05: Form of Records

Each Licensee may record, copy or reproduce its books, records, and accounts by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging, or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner, provided, however, that such method used to record, copy or reproduce original records or documents shall be approved by the Commissioner in a written plan for examination. A licensee's records shall be accessible for examination through equipment available to the Commissioner or his examiners. If equipment necessary to conduct the examination is lacking, the licensee shall at its own expense procure and make available such equipment. The written plan pursuant to 209 CMR 48.05 may be separate or included as a part of the plan under 209 CMR 48.04.

#### 48.06: Review

- (1) Any written plan for examination approved by the Commissioner under 209 CMR 48.00 *et seq.* shall remain in effect indefinitely, but shall be subject to periodic review by the Commissioner. A Licensee may amend its written plan from time to time and such amendment shall not be effective until approved by the Commissioner. The Commissioner may modify, curtail, rescind, or otherwise limit a Licensee's authority to keep its books, records and accounts at a location outside of the Commonwealth pursuant to 209 CMR 48.04, and also to record, copy or reproduce its books, records and accounts under any method authorized under 209 CMR 48.05.
- (2) Failure of a Licensee to keep its books and records in accordance with 209 CMR 48.00 *et seq.* may result in suspension or revocation of the license under the authority contained in the specific statute applicable to the Licensee.

#### REGULATORY AUTHORITY:

209 CMR 48.00: M.G.L. [c. 93, § 24D](#); c. 140, § 97; c. 255B, § 3; c. 255C, § 6; c. 255D, § 3; c. 255E, § 8; and c. 30A, § 8.