Final Amendments – Effective 9/26/25

209 CMR 48.00: LICENSEE RECORD KEEPING

Section

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48.01: Applicability and Purpose

The purpose of 209 CMR 48.00 is to establish procedures and requirements for record keeping by licensees. You must comply with 209 CMR 48.00 if you meet the definition of a licensee.

48.02: Definitions

The following words shall have the following meanings:--

Commissioner means the Commissioner of Banks.

Commonwealth means the Commonwealth of Massachusetts.

Electronic means relating to technology as having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

Electronic Record means a record created, generated, sent, communicated, received or stored by electronic means.

Examination means the examination or inspection of a licensee's books and records as required by applicable statute.

Licensee means any person who is registered as a third party loan servicer under the provisions of M.G.L. c. 93, §§ 24 through 28 or any person who is licensed as: a debt collector under the provisions of M.G.L. c. 93, §§ 24 through 28; a student loan servicer or an automatic federal student loan servicer under the provisions of M.G.L. c. 93L; a small loan company under the provisions of M.G.L. c. 140, §§ 96 through 114A; a check seller under the provisions of M.G.L. c. 167F, § 4; a foreign transmittal agency under the provisions of M.G.L. c. 169; a check casher under the provisions of M.G.L. c. 169A; a motor vehicle sales finance company under the provisions of

M.G.L. c. 255B; an insurance premium finance agency under the provisions of M.G.L. c. 255C; a retail installment sales finance company under the provisions of M.G.L. c. 255D; or a mortgage lender or a mortgage broker under the provisions of M.G.L. c. 255E.

NMLS means the Nationwide Multi-State Licensing System & Registry, a multistate licensing system owned and operated by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS), an association of state financial services regulators.

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

You means a licensee.

48.03: How Long to Keep Books and Records

You must keep all books, records, and accounts as required by State and federal law and regulation. If you are licensed as a debt collector, you must maintain all books, records, and accounts for a minimum of three years after the debt collector's last collection activity on the debt or after any account has been returned to the creditor whether or not payments have been made. If you are licensed as a debt collector and record telephone calls made in connection with the collection of debt, you shall retain the recording of each such telephone call for three years after the date of the call. If you are registered as a third party loan servicer, you must maintain all books, records, and accounts for a minimum of two years. If you are licensed as a student loan servicer or licensed as an automatic federal student loan servicer, you must maintain all books, records, and accounts for not less than two years following the final payment on a student loan or the assignment of a student loan, whichever occurs first, or except as otherwise required by federal law or a contract with the United States Secretary of Education under 20 U.S.C. 1087f. If you are licensed as a small loan company, check seller, foreign transmittal agency, check casher, motor vehicle sales finance company, insurance premium finance agency, retail installment sales finance company, mortgage lender, mortgage broker, mortgage company, you must maintain all books, records, and accounts for a minimum of three years. This includes, but is not limited to, 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: Where to Keep Books and Records

(1) You may keep books, records, and accounts at a location in the Commonwealth. You must designate the location in NMLS, as well as the name of the individual responsible for providing access, and provide immediate access to the Commissioner

or the Commissioner's designees in order to conduct an examination. If you are a student loan servicer or an automatic federal student loan servicer, you shall provide access to records not later than 5 business days after the Commissioner, or his or her designee, makes a request for records.

(2) You may also keep books, records, and accounts at a location outside of the Commonwealth. You must designate the location in NMLS, as well as the name of the individual responsible for providing access. If you keep books, records, and accounts out of state, you must:

(a) provide access, within 72 hours of an official request, or within 5 business days of an official request if you are a student loan servicer or an automatic federal student loan servicer, to any books, records, and accounts at a suitable location in the Commonwealth, as determined by the Commissioner or the Commissioner's designee, for the purpose of an examination;
and

(b) for on-site examinations, provide immediate access to books, records, and accounts to the Commissioner or the Commissioner's designees in order to conduct the examination. You must also separately reimburse the Commissioner for appropriate and necessary expenses for an examiner, or examiners, to conduct an examination at a location outside of the Commonwealth.

48.05: Format of Books and Records

(1)You must keep books, records, and accounts in a manner that will allow the Commissioner to determine if you are in compliance with applicable State and federal laws and regulations.

(2) You may store books, records, and accounts as electronic records. You must make all electronic records accessible for examination through equipment available to the Commissioner or the Commissioner's designees in compliance with applicable law. If there is no equipment available to conduct the examination, you must procure and make available such equipment, at your own expense. Prior to maintaining your books, records, and accounts electronically, you must indicate in NMLS how your books, records, and accounts will be stored, including the name of the system utilized,

and how such electronic records will be made accessible to the Commissioner or the Commissioner's designees for the purpose of an examination.

(3) You must secure all books, records, and accounts against unauthorized access and damage.

48.06: Failure to Comply

(1) If you do not comply with 209 CMR 48.00, 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 or to store books, records, and accounts in electronic form.

(2) If you do not comply with 209 CMR 48.00, the Commissioner may take enforcement action against you, including but not limited to, the suspension or revocation of your license under applicable authority.

REGULATORY AUTHORITY:

209 CMR 48.00: M.G.L. c. 93, § 24D; M.G.L. c. 140, § 97; c. 167F, § 4; c. 169, § 10; c. 169A, § 11; c. 255B, § 3; c. 255C, § 6; c. 255D, § 3; c. 255E, § 8; M.G.L. c. 93L, §§ 5 and 7, as added by St.2020, c. 358, § 65; and c. 30A, § 8.