

286.8-170 Places where records required to be kept -- Examination by commissioner -- Fee -- Access to records -- Reports.

- (1) As used in this section, "control records" means all records relating to the operation of a branch that are necessary to exercise control and supervision over the branch.
- (2)
 - (a) Every mortgage loan company and mortgage loan broker shall keep at its principal office correct and complete records of its business transactions, books of accounts, and minutes of proceedings of its directors, principals, or partners.
 - (b) Complete records of all business transactions at the principal office shall be maintained at the principal office.
 - (c) Each branch shall:
 1. Keep detailed records of all transactions at the branch; and
 2. Furnish full control records to the principal office.
 - (d)
 1. Any record of a mortgage loan company's or mortgage loan broker's business transactions, book of accounts, or minutes of proceedings of its directors, principals, or partners generated prior to the company's or broker's previous examination may be stored at a third-party secure storage facility.
 2. The mortgage loan company or mortgage loan broker, as applicable, shall:
 - a. Notify the commissioner, in writing, thirty (30) days prior to engaging with any third-party secure storage facility; and
 - b. Receive approval from the commissioner for use of the third-party secure storage facility.
- (3) No mortgage loan company or mortgage loan broker by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any person, partnership, association, or corporation or under any title, designation, or value that is not thoroughly descriptive of any assets.
- (4) The affairs of every mortgage loan company, mortgage loan broker, and mortgage loan originator, and the records required to be maintained by KRS 286.8-160, shall be subject at any time or from time to time to such periodic, special, or other examinations by the commissioner or an examiner of the commissioner within or without this state and with or without notice to the person being examined, as the commissioner deems necessary or appropriate in the public interest. All records of the person being examined shall be subject to the commissioner's inspection.
- (5) The examiner shall:
 - (a) Make a thorough examination into the condition, workings, and affairs of the person being examined; and
 - (b) Report, as he or she may find, to the commissioner any:
 1. Violation of law;
 2. Unauthorized unsafe practices; or

3. Failure to keep and have correct any required books and records.
- (6) For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as he or she deems it practicable in administering this section, may:
 - (a) Cooperate and exchange information with:
 1. Any agency of the state or federal government;
 2. Other states;
 3. The Nationwide Multistate Licensing System and Registry; or
 4. The federal National Mortgage Association, Government National Mortgage Association, and Federal Home Loan Mortgage Corporation; and
 - (b) Accept examinations from the entities described in paragraph (a) of this subsection, in whole or in part, in lieu of an examination by the commissioner.
 - (7) The commissioner or the commissioner's examiners or designated representative shall have access to all records of a mortgage loan company, mortgage loan broker, and mortgage loan originator which relate to their business, and records kept by any officers, agents, or employees, relating to or upon which any record of its business is kept.
 - (8)
 - (a) A mortgage loan originator shall make available and grant access to the commissioner, or an examiner of the commissioner, the records relating to its operations.
 - (b) A mortgage loan company or mortgage loan broker shall make available and grant access to all records of its current and former employees and contractors relating to its operations.
 - (9) Any person subject to this subtitle shall make or compile reports or prepare other information as directed by the commissioner or an examiner of the commissioner to include:
 - (a) Accounting compilations;
 - (b) Information lists and data concerning loan transactions in a format prescribed by the commissioner or an examiner of the commissioner; and
 - (c) Such other information deemed necessary to carry out the purposes of this section.
 - (10) No mortgage loan company, mortgage loan broker, or mortgage loan originator shall impede the commissioner or an examiner of the commissioner from interviewing its officers, principals, members, employees, independent contractors, agents, or customers.
 - (11)
 - (a) In making any examination or investigation authorized by this subtitle, the commissioner may control access to any documents and records of the licensee or person under examination or investigation.
 - (b) The commissioner may take possession of the documents and records, or place a person in exclusive charge of the documents and records in the place where they are usually kept.

- (c) During the period of control under this subsection, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner.
 - (d) Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this subtitle, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.
- (12) No person subject to investigation or examination under this subtitle shall knowingly withhold, abstract, alter, remove, mutilate, destroy, or secrete any books, records, or other information.
- (13) In order to carry out the purposes of this subtitle, the commissioner may:
- (a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
 - (b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this subtitle; and
 - (c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the persons subject to this subtitle.
- (14) The authority of this section shall remain in effect whether a person acts, or claims to act, under any licensing or registration law of this subtitle, or acts, or claims to act, without such authority.

Effective: July 14, 2022

History: Amended 2022 Ky. Acts ch. 125, sec. 6, effective July 14, 2022. -- Amended 2016 Ky. Acts ch. 129, sec. 6, effective July 15, 2016. -- Amended 2010 Ky. Acts ch. 24, sec. 782, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 104, sec. 12, effective June 25, 2009. -- Amended 1998 Ky. Acts ch. 197, sec. 14, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 461, sec. 18, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 365, sec. 18, effective July 15, 1980.

Formerly codified as KRS 294.170.

Legislative Research Commission Note (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.