**Section 1075.430 Maintenance of Records**

To enable the Director to examine a savings bank, holding company, service corporation or affiliate of a savings bank pursuant to Section 9004 of the Act, each savings bank shall establish and maintain accounting and other records of all business transacted, and the documents, files and other material comprising such records shall at all times be available for examination wherever any of such files, documents or materials may be. At a minimum, a savings bank and service corporations shall establish and maintain the following records.

a) Disbursement Records

A savings bank's funds shall be disbursed in accordance with a resolution adopted by the board of directors and reviewed at least annually. Each disbursement shall be documented to show the date, the amount and the purpose of the disbursement and the names of the person or persons or other entities receiving such disbursements whether paid directly, indirectly or through an escrow.

b) Record Retention

1) Before approving any loan or issuing any commitment, a savings bank shall determine that every person that proposes to become liable to the savings bank has the financial ability to service the proposed debt. The procedure for determining the financial capacity of every person that proposes to become liable to the savings bank shall be in accordance with procedures adopted by the board of directors and reviewed at least annually. Thereafter, a savings bank shall retain the application and other documentation supporting each loan, as well as the complete servicing record, as part of the records of the savings bank throughout the duration of the savings bank's investment in the respective loan.

2) A savings bank shall retain each rejected loan application and the information in support thereof for a period of thirty-six (36) months following such rejection.

c) The savings bank shall:

1) require every borrower that is:

A) a trust to provide a certification by the trustee listing the current beneficiaries of the trust;

B) a corporation to provide a certification by the corporate secretary listing the names and percentage of ownership of all 10% or more shareholders; and

C) a partnership to provide a certified list of partners.

2) retain such documents as a part of the savings bank's records and that shall be maintained throughout the duration of the savings bank's investment in the respective loan.

d) Loan Registers

1) A savings bank shall maintain one or more loan registers which shall contain the original entry and be a permanent record, and shall show for every loan the account number, date of the loan, amount of the loan, name of the borrower, nature of security by types, the amount of fees, the amount of the note, including precomputed loans, rate of interest, the term of the loan, and such other information as desired by the savings bank.

2) All loan registers shall be kept numerically by number of loans in order made.

e) Loans Secured by Real Estate

1) An application for the loan, signed by the borrower or its agent, in such form and containing information as will disclose the purpose for the loan, that is construction, purchase, refinancing, and the identity of any security property.

2) A note evidencing the borrower's debt to repay the amount of the loan, executed by the borrower or its agent.

3) A copy of the deed of trust or mortgage instrument on the real estate or other document customarily used in the jurisdiction in which the real estate security is located, evidencing the creation of a security interest in the real estate for the benefit of the lender, which deed of trust, mortgage instrument, or other document has been signed by the borrower or the borrower's agent; and, if the loan is made to finance the purchase of the real estate security for the loan, a signed statement by the borrower or its agent, as part of or as an attachment to the application for the loan, disclosing the purchase price of such real estate security.

4) One or more written appraisal reports, prepared at the request of the lender or its agent and for the lender's use, and signed before the approval of the application (except in the case of an approval conditioned upon obtaining an appraisal) or, if the loan is an insured loan or a guaranteed loan, a certification of the valuation assigned to real estate security by the appraiser accepted by the insuring or guaranteeing agency and furnished to the lender by the agency. Loans of less than $250,000 may be supported by estimates of value other than an appraisal, such as in-house appraisals and valuations, previous appraisals, tax assessments, tax assessment valuations, and insurance evaluations.

5) Documentation showing the financial ability of the borrower to repay the loan, or a written credit report prepared by the savings bank or by others at the request of the savings bank.

6) Documentation showing when and by whom the loan was approved and any terms of the approval.

7) Documentation showing the date, amount, purpose, the recipient of every disbursement of the proceeds of the loan, and to the best of the lender's knowledge, any actual recipient of any proceeds when the stated recipient is acting as an agent or intermediary for another.

8) An opinion signed by the lender's attorney, a title insurance policy, or other documentary evidence customarily used in the jurisdiction in which the real estate security is located, affirming the quality and validity of the lender's lien on the real estate security for the loan.

9) Documentation showing that the savings bank, upon the closing of the loan, furnished to the borrower, a loan settlement statement setting forth in detail the charges or fees the borrower has paid or is obligated to pay to such savings bank or to any other concern or person in connection with the loan, which documentation shall include a copy of the loan settlement statement.

10) A record showing the status and current payment of taxes, assessments, insurance premiums, other charges on the security for the loan, and documenting any loss incurred on the loan security, as well as any amounts recovered pursuant to an insurance settlement of the loss.

11) Documentation evidencing any modifications of the original documents by which a security interest for the benefit of the lender was created, showing appropriate approval of each party to the modification.

12) Documentation evidencing any release of any portion of the collateral pledged to secure the loan, showing the portion of the collateral released, the consideration, if any, paid to effect the release, and a record of the appropriate approval of each release.

f) Loans Not Secured by Real Estate

The records with respect to each unsecured loan or loan not secured by real estate that the savings bank makes shall include the documents referred to in subsection (g) that are relevant to the loan. If the loan is secured by collateral other than real estate, the lender's records also shall include documents evidencing the creation and perfection of a security interest in the collateral, including any financing statement. In addition, if the loan is made to a business entity, the records shall include documentation showing whether the obligor on the loan can generate sufficient cash flow to meet scheduled interest and debt reduction payments, and if not sufficient, the records shall include documentation demonstrating the anticipated source of the borrower's payments.

g) Transfer of Records

A savings bank shall not transfer the location of any of its general accounting or control records from its home office to a branch or other office, or from a branch or other office to its home office or to another branch or office unless the savings bank has sent prior written notice of the transfer to the Director.

h) Data Processing

1) A savings bank that maintains it records by a data processing service shall, before establishing such service, notify the Director in writing. The notice shall be delivered at least 90 days before the date on which the maintenance of records will begin. The notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which the information will be maintained. Any contract shall expressly provide that the records to be maintained by the services shall at all times be available for examination by the Director.

2) A savings bank's data processing service center shall provide, annually, a copy of the third party audit review, if performed.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)