

NEBRASKA ADMINISTRATIVE CODE

Title 45 – DEPARTMENT OF BANKING AND FINANCE

Chapter 5 – SCHEDULE FOR RETENTION OF RECORDS: BANKS EXERCISING TRUST POWERS AND TRUST COMPANIES

001 DEFINITIONS.

001.01 For purposes of this Rule:

001.04A “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities; and

001.04B “Electronic record” means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice.

001.02 A copy of the federal regulations referenced in this Rule is available as an appendix to this Rule at *(link to be determined)*.

002 RETENTION FORMAT.

002.01 The Department, pursuant to the provisions of Neb. Rev. Stat. §§ 8-170 and 8-175, authorizes banks exercising trust powers in a trust department of the bank and stand-alone trust companies (collectively, “institutions” or “institution”) organized pursuant to the Nebraska Trust Company Act to dispose of trust department and trust company records in accordance with this Rule.

002.02 Records established through a computer or an electronic process, and information received relative to this record in the form of a computer print-out or electronic record shall be maintained in such a manner that the accounts reflected thereon can be reconstructed from the date of origin to show all entries and are to be retained in accordance with this Rule.

002.03 Institutions which used microfilm or microfiche to maintain such records may continue to retain the records in those media, provided that each record is retrievable and readable or legible.

002.04 Any record reflecting unpaid balances in favor of trustors, grantors, beneficiaries, and/or other interested parties shall not be destroyed without means of reconstruction of each such account.

003 SCOPE.

003.01 This Rule provides only the minimum retention periods prescribed by the Department.

003.02 Longer retention periods may be prescribed by other agencies in some circumstances or for certain records.

003.03 Institutions may elect to maintain certain records for longer periods of time.

003.04 A bank's non-trust department records must be retained in accordance with 45 NAC 4.

003.05 This Rule is not considered an all-inclusive list of records which the institution may be responsible for retaining.

003.06 All records or files or copies thereof, however maintained, shall be readable or legible.

004 PERMANENT RECORDS.

004.01 Institutions must keep the original of the following:

004.01A Capital stock ledger (trust company).

004.01B Charter; numbered and executed by the Director of the Department.

004.01C Department "Order" granting trust powers.

004.01D Minutes of stockholder meetings (trust company).

004.01E Minutes of the board of directors (trust company).

004.01F Minutes of the trust committee and all other committees appointed by the Board of Directors to oversee fiduciary activity.

004.01G Receipts for final distribution of account assets.

004.01H Registration confirmations regarding "Direct" or "Indirect Inquiry" concerning lost, stolen, or misplaced securities.

004.01I Required records and logs pursuant to FDIC Regulation Part 344 (O.C.C. 12 CFR Part 12 or FRB Regulation "H" Subpart C).

004.01J All other records relating to the corporate existence of a stand-alone trust company or the authorization for a bank to conduct a trust company business in a trust department.

004.02 Records reflecting unpaid balances in favor of trustors, grantors, beneficiaries, and/or other interested parties are to be retained permanently unless the institution remits such unpaid balances to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. A record of each remittance shall then be retained by the bank for ten years.

004.03 An inventory of each drilled safe deposit box is to be retained permanently unless the institution remits the contents of the box to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. A record of each remittance shall then be retained by the institution for ten years.

005 OTHER CORPORATE RECORDS.

005.01 Institutions must retain the following original records for ten years following date of issue or expiration, whichever is later. Records may be retained electronically after ten years and the original destroyed, provided that the record, however maintained, is clearly readable or legible.

005.01A Annual call reports of corporate and fiduciary activity, prepared for any supervisory agency.

005.01B Federal, state, and other governmental tax records (trust company).

005.01C Insurance records, Bankers' Blanket Bond, Excess Dishonesty Bonds.

005.01D Receipts for stock certificates issued (trust company).

005.01E Stock certificate stubs (trust company).

005.01F Surrendered stock certificates (trust company).

006 ALL OTHER FIDUCIARY RECORDS.

006.01 Institutions must retain the following original records for six years after fulfillment of duties specified in the governing documents of individual accounts. After six years, the original document may be maintained electronically, provided the record, however maintained, is clearly readable or legible.

006.01A Advice of payments of bequests, gifts, discretionary distributions, income distributions, scheduled payments, or extraordinary payments requested by interested parties.

006.01B Common Investment Fund (CIF) or Common Trust Fund (CTF) records including annual reports, annual fund audits, governing plan documents, and all terminations reports. Retention shall continue six years beyond the date of termination of the CIF or CTF and full payment of all investor share accounts.

006.01C Correspondence relative to the administration of accounts.

006.01D Court orders issued regarding legal appointment, judgments, or other litigation settlement and/or trustee requests for direction.

006.01E Cremation/destruction certificates regarding matured, redeemed, or cancelled corporate bond issue certificates.

006.01F Dividend checks paid on corporate bond issue accounts.

006.01G Escrow account records (including payment schedules).

006.01H Final accounting report for any fiduciary account.

006.01I Legal opinions or other letters of legal counsel pertaining to the administration of trust accounts.

006.01J Real estate records.

006.01K Safekeeping records relating to assets held during course of account administration.

006.01L Trust indentures and other authorizing documents creating fiduciary relationships and/or limiting authority of the named fiduciary.

006.01M Wills of decedents who appointed the bank or trust company as personal representative and/or trustee of subsequent trust accounts created by the will.

006.01N Worthless assets, including documentation regarding determination of worthless status and distribution of such assets in kind, if applicable.

006.02 Institutions must retain the following records within individual account files until six years after accounts have been closed or terminated:

006.02A Accounting records of individual fiduciary accounts.

006.02B Administrative expenses charged to and paid from individual account funds.

006.02C Annual (or other periodic) reports provided grantors/beneficiaries during administration of the account.

006.02D Approvals of administrative action by co-fiduciaries and third parties authorized to provide advice.

006.02E Authorization of transactions by co-fiduciaries and investment advisors.

006.02F Bondholder records regarding corporate bond issues over which the institution exercises trustee or agency authority.

006.02G Bond transfer records for corporate bond issue accounts.

006.02H Broker/dealer statements relating to liquidation of assets for final distribution and/or re-registration of securities for distributions in kind.

006.02I Cash journals or ledgers reflecting receipt and disposition of principal and income cash.

006.02J Corporate bond issue accounting records.

006.02K Corporate bond issue asset ledgers where fiduciary capacity included trustee or escrow agent investment duties.

006.02L Coupon and/or Dividend collection records pertaining to assets held by accounts.

006.02M Employee benefit plan account records (both as agent and trustee).

006.02N Indemnification agreements and surety bonds in regard to lost, stolen, or misplaced certificates of corporate bond issues for which the institution acted as trustee or agent.

006.02O Keogh & IRA account records (custodial accounts).

006.02P Mortgage and loan collection records for individual accounts (when an asset of the account).

006.02Q Mortgage and loan payment records for individual accounts (when a liability of the account).

006.02R Original records and documents pertaining to trust entries at the inception of accounts.

006.02S Receipts for the exchange or substitution of trust assets.

006.02T Rent and lease payment receipts for accounts holding income producing real or personal property.

006.02U Signature files of authorized signatories for direction of accounts.

006.02V Stock transfer ledgers where institution is fiduciary for an equity stock issue.

006.02W Stockholder records specifying current stock ownership where institution is fiduciary for an equity stock issue.

007 TEMPORARY RECORDS.

007.01 During active administration, an institution must retain the originals of the following items for the specified time frames which commence on the first of January following the creation of said record. Any temporary record not included in this Subsection must be retained for three years following the creation of the record.

<u>RECORD</u>	<u>TIME PERIOD</u>
Annual account review documents	2 years
Annual reports of securities held in accounts	Until Superseded
Appraisal of personal property held in fiduciary accounts	Until Superseded

Appraisal of real estate parcels held in fiduciary accounts	Until Superseded
Audit reports and work files of internal/external auditors	2 years
Broker/dealer invoices	3 years
Broker/dealer transaction confirmations	3 years
Checking account statements with paid drafts	6 years
Check register detailing disposition of fiduciary account funds	6 years
Contracts and agreements	3 years after expiration
Correspondence not relative to administration of account	3 years
Decedents' final tax returns	3 years after filing
Farming leases	3 years after expiration
Federal and State Estate Tax Returns	3 years after filing
Federal and State Gift Tax Returns	3 years after filing
Fiduciary Income Tax Returns (Fed & State)	3 years after filing
General ledger and journal entry tickets or advices	3 years
Income statements from account assets -	3 years after closing
Internal policies and procedures	Until Superseded
Investment records - 3 years	
Invoices paid from individual fiduciary accounts	3 years after closing
Proxy statements regarding voting of company stock (trust company)	2 years
Proxy statements regarding voting rights for securities held as assets of fiduciary accounts	2 years
Stop payment orders	3 years
Surety bonds required by court order or agreement	3 years after release
Synoptic account records	Until Superseded