

100 State Bank Commissioner

101 Retention of Financial Institution Records

5 Del.C. §141

Formerly Regulation No.: 5.141.0001.NC

Effective Date: September 22, 1995

Section 141 of Title 5 of the **Delaware Code**, as amended, provides that the State Bank Commissioner may from time to time issue regulations classifying and setting minimum retention periods for the records of financial institutions which are subject to the supervision of the Commissioner's Office and of federally chartered financial institutions in Delaware.

This regulation rescinds the previous record retention Regulation No. 5.141.0001.NC and establishes a new regulation in its place.

1.0 Scope

- 1.1 The following are subject to this regulation:
 - 1.1.1 State chartered financial institutions;
 - 1.1.2 Federally chartered financial institutions, insofar as the regulation does not contravene paramount federal law;
 - 1.1.3 State licensed financial businesses including, but not limited to, Licensed Lenders, Licensed Mortgage Loan Brokers, Licensed Motor Vehicle Sales Finance Companies, and Licensed Cashers of Checks, Drafts, or Money Orders.
- 1.2 The Office of the State Bank Commissioner requires that financial institutions subject to this Regulation maintain certain books and records for examination, compliance, regulatory and other purposes consistent with any applicable federal law or regulation and the requirements set forth below. Such financial institutions are obligated to ensure compliance with this Regulation and may do so by agreement with other entities that may maintain certain of their records, such as a service provider, data processor or storage facility, wherever located within or without the State of Delaware.
- 1.3 Records that are not covered by either federal law or regulation or this Regulation should be maintained at the financial institution's discretion and with the advice of counsel.

2.0 Form of Records

- 2.1 All records required to be maintained under this Regulation must be retained in a form and manner that is consistent with reasonable business practices for financial institutions, and any applicable federal law or regulation. Without limiting the foregoing, all such records (even those which must be maintained permanently as indicated in Schedule A of this Regulation), may be maintained in either original form, as a copy thereof, or as part of any electronic, computer, mechanized or other data storage or retrieval or transmission system or device that can accurately reproduce, regenerate or transmit the original record, a copy of the record or all pertinent information from the original or any copy. Examples of appropriate forms of records include: copies produced from the same impression or process as the original by carbon or other chemical or substance or process (e.g. carbon copies); film, prints, reproduction and facsimiles of an original or copy produced by photographic, microphotographic, photostatic, xerographic, or other process (e.g. photocopies, microfilm, microfiche); and data or other information comprising a record reproduced, regenerated or transmitted from any electronic, computer, mechanized or other data storage or retrieval or transmission system or device (e.g. magnetic tape, optical disk); and such other forms of records as may be approved by the Office of the State Bank Commissioner. The records requirements contained herein are designed to facilitate records retention for examination purposes only; reproductions of

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records as an alternative to retaining original documents, as permitted herein, may not satisfy other legal requirements.

3.0 Availability and Location of Records

- 3.1 All records required to be maintained under this Regulation or applicable federal law must be readily available within a reasonable time period upon request by the Office of the State Bank Commissioner for supervisory examination or other authorized purposes. Such records may be maintained at any location wherever located within or without the State of Delaware that is suitable to the financial institution.

4.0 Status of Records

- 4.1 All records maintained by a financial institution subject to this Regulation, whether in original form or as a copy thereof or as part of a data storage or retrieval or transmission system, which are duly certified, authenticated, or identified by a responsible officer, employee or agent of the financial institution under whose supervision the records are kept, shall in all cases and in all courts and places be admitted and received in evidence with like force and effect as the original record, whether or not the original record is in existence, to the fullest extent permitted by law.

5.0 Retention Periods

- 5.1 All records required to be maintained pursuant to this Regulation must be maintained consistent with the retention periods set forth in this Regulation and/or any applicable federal law or regulation. More specifically, the retention periods set forth in Schedule A of this Regulation must be adhered to if there is no applicable federal retention period. If there is an applicable federal retention period, the federal retention period should be adhered to even if such federal period is longer or shorter than the retention period set forth in this Regulation. After the applicable retention period expires, the records may be destroyed. In the attached schedule of retention periods, all retention periods begin with the final transaction date appearing on the record unless otherwise noted.

Schedule A
RECORDS RETENTION SCHEDULE
Banks and Trust Companies

(Periods of retention are in years, unless otherwise indicated)

0001.01 PERMANENT RECORDS

1.0101 Annual reports

1.0102 Bank call reports

1.0103 Bank examination reports

1.0104 Bank charter, Certificate of Incorporation, by laws, amendments, minutes of meetings of Directors, executive and other committees

1.0105 Capital stock - Certificates, Ledger, Transfer Ledger

1.0106 Certificate of Authority - approved branch locations

1.0107 General Ledger

1.0108 Internal security investigation reports

0001.02 OTHER RECORDS

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1.0201 Advices from correspondents (due from banks)	1
1.0202 Advices of correction (proof, clearing and transit)	2
1.0203 Advices of debits or credits	1
1.0204 Bank investments - broker confirmations, invoices statements, securities buy and sell orders	6
1.0205 Bank investments - safekeeping receipts	6
1.0206 Bank statements (due from banks)	5
1.0207 Bond ledger	6
1.0208 Budget records (corporate)	1
1.0209 Canceled checks	6
1.0210 Cash item records	1
1.0211 Deposit activity register (after maturity, if applicable)	1
1.0212 Certified checks, activity register, money orders, official checks	6
1.0213 Clearinghouse settlement sheets	1
1.0214 Closed account report	1
1.0215 Collection activity register	3
1.0216 Correspondence (customer dispute)	3
1.0217 Currency shipment books	3
1.0218 Currency transaction reports	5
1.0219 Customer's deposit ledgers	5
1.0220 Daily statement of condition	1
1.0221 Debit and credit tickets	1
1.0222 Departmental or teller's proof sheets	2
1.0223 Deposit tickets	2
1.0224 Drafts, draft activity register	6
1.0225 Dividend check, paid (capital)	6
1.0226 Dividend check activity register (capital)	6
1.0227 Escheat records, after escheatment	1
1.0228 FDIC assessment base records	5
1.0229 General ledger tickets	6
1.0230 Insurance records (after expiration of policy)	3
1.0231 International - cable and mail transfers	6
1.0232 International - letter of credit records	6
1.0233 Large transaction report, over \$10,000 (deposits)	5
1.0234 Liability ledger	6
1.0235 Loan and note activity register	6
1.0236 Loan application (all evaluation material)	3
1.0237 Loan payment record	6
1.0238 Name and address change report	2
1.0239 Night depository agreements	1
1.0240 Outgoing cash letter	1
1.0241 Overdraft/NSF report (deposit)	1
1.0242 Personnel records (after termination of employment and pension rights)	6
1.0243 Personnel records - declined applications	2
1.0244 Proof tapes, sheets	1
1.0245 Proxies	3
1.0246 Records of outside business interests of bank's executive officers, directors and principal shareholders and their transactions with bank	3

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1.0247 Reconcilements (due to banks) (due from banks)	3
1.0248 Registered mail return receipt cards	6
1.0249 Remittances, serviced mortgages	1
1.0250 Reports of accounts opened or closed (due to banks)	1
1.0251 Repossession and foreclosure log	6
1.0252 Reserve computations daily	2
1.0253 Resolutions, authorizations (corporate - deposit/loan)	6
1.0254 Return item letters	1
1.0255 Safe deposit contracts (after termination of contract)	6
1.0256 Safe deposit records and receipts	6
1.0257 Security - camera surveillance log	1
1.0258 Security devices checklist, inspection records	2
1.0259 Service charge report	6
1.0261 Statements	2
1.0262 Stop payment orders	2
1.0263 Taxpayer information (deposits)	5
1.0264 Tax records (corporate)	10
1.0265 Tellers activity register	2
1.0266 Transaction journal	6
1.0267 Transit letters (due from banks)	1
1.0268 Trial balance	1
1.0269 Travelers checks register	2
1.0270 Utility payment records (customer)	6
1.0271 Vault records, access and maintenance	2

0001.03 TRUST RECORDS

1.0301 Bonds of indemnity	21*
1.0302 Canceled stock certificates	Permanent
1.0303 Legal papers	21*
1.0304 Mail receipts	7*
1.0305 Paid dividend checks	7
1.0306 Registration records	7*
1.0307 Stock certificates	7*
1.0308 Stockholder records	7*
1.0309 Tax returns	7*
1.0310 Transfer records	7*
1.0311 Transmittal letters	7*

* After trust is terminated or account closed

**Schedule B
RECORDS RETENTION SCHEDULE**

Licensees

(Periods of retention are in years, unless otherwise indicated)

Licensed Lenders (Chapter 22, Title 5, **Delaware Code**)

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1. Loan Register	2*
2. Individual Accounts with Borrowers	2*
3. File of All Original Paper (including applications)	2*
4. File of All Original Paper/Denials	25 mos.
5. Daily Transaction Journal	2
6. Index of Borrowers, Endorsers, Comakers, etc.	2
7. Record of Loans in Litigation and Repossessions	5**
8. Credit Insurance Claims Register	2

Mortgage Loan Brokers (Chapter 21, Title 5, **Delaware Code**)

1. Applicant Register	2
2. Individual Records of Applicants/Closed Loans	2
3. Individual Records of Applicants/Denials	25 mos.
4. Record of Litigation	5**
5. Advertising	2

Motor Vehicle Sales Finance (Chapter 29, Title 5, **Delaware Code**)

1. Retail Installment Contract Applicant Register	2
2. Individual Accounts with Borrowers	2
3. Files of All Original Paper	2*
4. Files of All Paper/Denials	25 mos.
5. Daily Transaction Record	2
6. Index of Borrowers, Endorsers, Comakers, etc.	2
7. Record of Loans in Litigation and Repossessions	5**
8. Credit Insurance Claims Register	2

Cashers of Checks, Drafts, or Money Orders (Chapter 27, Title 5, **Delaware Code**)

1. Transactions Journal	2
2. Record of Deposits	2
3. Summary of Business	2

Transportation of Money and Valuables (Chapter 32, Title 5, **Delaware Code**)

1. Contracts for Transportation/Handling/Storage Services (after expiration)	2
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Preneed Funeral Contracts (Chapter 3, Title 5, **Delaware Code**)

1. Preneed Trust Agreements (file of all original paper)	2*
2. Record of All Payments Received	2*
3. Record of All Contracting Parties	2*
4. Record of Depository Institution Used	2*

* After Account is Closed

** After Litigation or Repossession is Completed