

**2100 Mortgage Loan Brokers**

**2103 Schedule of Charges**

5 Del.C. §2115

Effective Date: April 11, 2014

**1.0 Itemization of Charges**

- 1.1 Each licensee shall maintain an itemization of the current charges that the licensee uses in consumer transactions. The itemization shall identify all charges that the licensee may collect from an applicant or borrower for a particular type of transaction, including a credit report fee, any broker origination fees, or other third-party fees. The itemization must be dated as of the most recent change in any charge and may contain value ranges to reflect the different costs of credit that may vary with risk or rate.
- 1.2 Each licensee shall furnish every applicant with a copy of its itemization of charges when the application is made.
  - 1.2.1 An explanation of the contents of the itemization satisfies this requirement for telephone applications.
  - 1.2.2 Website screens containing the itemization satisfy this requirement for electronic applications. The applicant must affirmatively acknowledge receipt of these screens before completing an application.
  - 1.2.3 A Good Faith Estimate issued in accordance with the Federal Real Estate Settlement Procedures Act, as amended, satisfies this requirement for real estate secured transactions covered by that statute.

**2.0 Licensee Compensation**

- 2.1 A licensee may receive any form of compensation that is allowed under 5 Del.C. Ch. 21, and not prohibited by any applicable federal statute or regulation. For the purposes of this section, compensation means the transfer of any "thing of value" as defined in the Federal Real Estate Settlement Procedures Act, as amended and the regulations thereunder, and does not require transfer of money.
- 2.2 Compensation cannot exceed any maximum allowed by any applicable State or federal statute or regulation.
- 2.3 Charges for fees paid to a third-party cannot exceed the amount paid to that party for the particular service provided. Average charges for fees paid to third parties are permissible provided they are calculated in accordance with the Federal Real Estate Settlement Procedures Act, as amended, and the regulations thereunder.
- 2.4 All forms of compensation that a licensee receives from an applicant or borrower must be specified in the licensee's agreement with that customer for a licensee to receive payment. This specification must include a description of each fee to be received, including but not limited to, credit report fees and loan origination fees.
- 2.5 The total compensation charged by a licensee shall not exceed the value of the goods and services provided.

**3.0 Charges Permissible Prior to Receipt of a Written Commitment**

- 3.1 A licensee may collect the following charges prior to the receipt of a written commitment from a lender:
  - 3.1.1 Credit Report Fee: The fee charged for all credit reports obtained from credit reporting agencies;
  - 3.1.2 Appraisal Fee: The fee charged for a written report as to the value of the security tendered;
  - 3.1.3 Rate Lock Fee: Fees for the commitment of a specific interest rate to be held for a specified period of time may be collected in accordance with a signed agreement if the fees are paid to the lender.
  - 3.1.4 Title Insurance Premiums and Title Services Fees: The premium for lender's title insurance and related endorsements. At the request of the borrower, such amount may include owner's title insurance and related endorsements in addition to lender's coverage. The fees for title services include the cost of the title commitment, certificate, search, examination, binder and direct compensation paid to the agent and the underwriter;
  - 3.1.5 Third-Party Fees: Other bona fide third-party fees paid or incurred on behalf of the customer. These other fees shall not be incurred without the express permission of the customer; and
  - 3.1.6 Returned Check Charges: Charges for returned checks and for the denial of electronic account debits are limited to the amount specified in the licensee's agreement with its customer. A customer may be assessed only one such charge per item.

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- 3.2 Amounts collected in excess of actual charges shall be refunded to the customer, and actual charges that exceed amounts collected may be charged to the customer.

**4.0 Charges Permissible After Receipt of a Written Commitment or Pre-Approval and Prior to Consummation of the Mortgage Loan**

- 4.1 A licensee may collect fees that the lender may require in advance of a loan closing, if paid directly to the lender or third-party provider.
- 4.2 This section shall not prohibit the collection of charges otherwise permitted under §3.0 of this regulation if such charges are collected after receipt of a written commitment or pre-approval.

**5.0 Collection of Charges in the Name of the Licensee**

Notwithstanding the limitations under §§3.0 and 4.0 of this regulation, a licensee may collect the charges authorized in those sections in the licensee's own name, if required by the lender.

**6.0 Fees From Lenders**

A licensee may collect a fee from a lender in accordance with their written mortgage loan broker agreement at closing or following any applicable rescission period.

**3 DE Reg. 653 (11/01/99)**

**17 DE Reg. 994 (04/01/14)**