

2200 Licensed Lenders

2202 Minimum Records

5 **Del.C.** §§2210(e) and 2211(a)
Effective Date: December 11, 2014

1.0 Minimum Required Records

Each licensed office shall maintain the following records on a current basis:

1.1 Register.

1.1.1 For applicants not granted credit, the office shall maintain a register containing:

1.1.1.1 the applicant's name and address;

1.1.1.2 a file identification number;

1.1.1.3 the application date;

1.1.1.4 for mortgage loans, the name of the mortgage loan originator for the application together with the unique identifier assigned to the originator by the Nationwide Mortgage License System and Registry;

1.1.1.5 the date of the credit decision or the date the application was withdrawn; and

1.1.1.6 the reason that the applicant was not granted credit.

1.1.2 For borrowers, the office shall maintain a register containing:

1.1.2.1 the information specified in §§1.1.1.1 through 1.1.1.4;

1.1.2.2 the date of the loan closing;

1.1.2.3 an identification of any type of security for the loan; and

1.1.2.4 the amount of the loan.

1.2 Applicant Record. For each applicant not granted credit, the office shall maintain a record containing all documents related to the applicant that shall include:

1.2.1 the applicant's name and address;

1.2.2 a file identification number;

1.2.3 the application;

1.2.4 all disclosures, when applicable, related to the loans that are required by the Federal Truth-in-Lending Act, as amended, and the regulations thereunder;

1.2.5 all invoices or other evidence of expenses incurred in connection with the application;

1.2.6 all receipts provided to the applicant for amounts paid to the licensee;

1.2.7 a record of all fees collected by the licensee;

1.2.8 evidence of any refunds with an explanation of them; and

1.2.9 for mortgage loans:

1.2.9.1 the name of the mortgage loan originator for the loan together with the unique identifier assigned to the originator by the Nationwide Mortgage Licensing System and Registry; and

1.2.9.2 the Good Faith Estimate for the loan that is required by the Federal Real Estate Settlement Procedures Act, as amended and the regulations thereunder.

1.2.10 for short-term consumer loans as defined in 5 **Del.C.** §2227, evidence that the licensee has complied with all requirements of 5 **Del.C.** §§2235A and 2235B for each short-term consumer loan or rollover application received from the applicant, including:

1.2.10.1 a copy of the database submission used to determine the applicant's eligibility for the loan or rollover; or

1.2.10.2 a copy of the database ineligibility confirmation for the application.

1.2.11 any document specifying the reasons that credit was not granted; and

1.2.12 all other written communications with the applicant.

1.3 Borrower Record. For each borrower, the office shall maintain a record containing all documents related to the borrower that shall include:

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- 1.3.1 the information and documents specified in §§1.2.1 through 1.2.8 of this regulation;
- 1.3.2 for short-term consumer loans as defined in 5 **Del.C.** §2227, evidence that the licensee has complied with the requirements of 5 **Del.C.** §2235A and 2235B for each short-term consumer loan or rollover made to the borrower, including:
 - 1.3.2.1 a copy of the database submission used to determine the borrower's eligibility for the loan or rollover;
 - 1.3.2.2 a copy of the database eligibility confirmation for the loan or rollover;
 - 1.3.2.3 the database transaction identification number for the loan or rollover; and
 - 1.3.2.4 the date the loan or rollover is paid in full.
- 1.3.3 for title loans as defined in 5 **Del.C.** §2250, evidence that the licensee has complied with the requirements of 5 **Del.C.** Ch. 22 Subch. V including the requirements related to disclosures, rollovers, work-out agreements and rescissions;
- 1.3.4 for mortgage loans:
 - 1.3.4.1 the name of the mortgage loan originator for the loan together with the unique identifier assigned to the originator by the Nationwide Mortgage Licensing System and Registry;
 - 1.3.4.2 the Good Faith Estimate for the loan that is required by the Federal Real Estate Settlement Procedures Act, as amended, and the regulations thereunder;
 - 1.3.4.3 the Uniform Settlement Statement for the loan that is required by the Federal Real Estate Settlement Procedures Act, as amended, and the regulations thereunder;
 - 1.3.4.4 for reverse mortgage loans, the certification from an independent housing counselor that is required by 5 **Del.C.** §2244; and
 - 1.3.4.5 for non purchase money mortgage loans, any evidence that a consumer exercised his or her right to rescind under the Federal Truth-in-Lending Act together with documents evidencing the actions taken by the lender following rescission.
- 1.3.5 the date of the loan closing;
- 1.3.6 the amount of the loan;
- 1.3.7 the repayment terms;
- 1.3.8 the type of any security;
- 1.3.9 the names of any endorsers, co-makers, guarantors, or sureties;
- 1.3.10 the actual date of receipt of each payment of principal and charges;
- 1.3.11 the name of any assignee or purchaser of the note;
- 1.3.12 a breakdown of how payments have been applied to interest, principal and fees;
- 1.3.13 the current balance due on the principal;
- 1.3.14 any workout agreement;
- 1.3.15 any credit related insurance contracts;
- 1.3.16 contracts for any non-insurance products sold by the licensee to the borrower or borrowers related to the credit transaction;
- 1.3.17 evidence that a mortgage or other security interest of record has been properly satisfied or released as prescribed by §4 of Regulation 2201;
- 1.3.18 evidence that the licensee has complied with the interest rate reduction requirements of the Federal Servicemembers Civil Relief Act, as amended, and the regulations thereunder, if applicable, including evidence that the rate was reduced at the appropriate time and remained reduced for the appropriate period;
- 1.3.19 evidence that the licensee has complied with the requirements of 10 **U.S.C.** §987, as amended, and the regulations thereunder, if applicable, relating to the requirements for payday loans, vehicle title loans and tax refund anticipation loans as each of those loans are defined in 32 CFR Part 232 when the loan is extended to a covered borrower as defined in Part 232;
- 1.3.20 if the licensee provides mortgage loan modification services as defined in 5 **Del.C.** §2245, evidence that the licensee has complied with the requirements of that section, including the limitations on compensation; and
- 1.3.21 all other written communications with the borrower.

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- 1.4 Daily Transaction Record. The office shall maintain on a daily basis a record of all transactions involving either the receipt or disbursement of any amount whatsoever. Details of disbursements to or for the account of borrower's shall be itemized.
- 1.5 Litigation and Enforcement of Security Record.
- 1.5.1 Litigation. The office shall maintain in either an individual file or in a separate litigation section, a record of all judicial and arbitration proceedings in which the licensee and an applicant or borrower are adversary parties. Records of judicial or arbitration proceedings being handled by attorneys or corporate collection centers may be maintained in a central office and must reflect the current status of the matter.
- 1.5.2 Enforcement of Security Interest. The office shall maintain in an individual borrower's account file a record of all loans in which the licensee has enforced its security interest by taking possession of the security without a judicial proceeding or in which the borrower has voluntarily surrendered the security.
- 1.5.3 In addition to all other information required under by this regulation, these records, shall include, as applicable:
- 1.5.3.1 the unpaid balance immediately prior to either the judicial or arbitration proceeding, the licensee's non-judicial repossession of the security, or the borrower's voluntary surrender of the security;
- 1.5.3.2 the type of any security foreclosed, replevined, repossessed, surrendered or of which the licensee otherwise acquires possession;
- 1.5.3.3 all documents filed with, or issued by, the court or arbitrator;
- 1.5.3.4 the date and terms of any judgment, arbitration decision, dismissal or settlement;
- 1.5.3.5 evidence that the terms of any sale of security were fair to the borrower, if the security was sold after a non-judicial repossession;
- 1.5.3.6 any other documents sent or received by the licensee pursuant to the 6 **Del.C.** Article 9. Secured Transactions, Part 6. Default;
- 1.5.3.7 with respect to any judicial or arbitration proceeding, non-judicial repossession or voluntary surrender of a motor vehicle:
- 1.5.3.7.1 the vehicle identification number (VIN);
- 1.5.3.7.2 the date the licensee acquired possession of the motor vehicle;
- 1.5.3.7.3 a description of the motor vehicle;
- 1.5.3.7.4 the date of the sale of the motor vehicle;
- 1.5.3.7.5 the terms of the sale of the motor vehicle, including copies of all bids or other offers received together with the purchaser's name and address, price and cash or financing terms;
- 1.5.3.7.6 evidence that the borrower was notified of the time and place of the sale; and
- 1.5.3.7.7 evidence of any amount paid to a third party.
- 1.5.3.8 with respect to a mortgage foreclosure proceeding under 10 **Del.C.** Ch. 49:
- 1.5.3.8.1 the notice of intent to foreclose required by 10 **Del.C.** §5062B;
- 1.5.3.8.2 proof of the certified mailing of that notice; and
- 1.5.3.8.3 all documents sent or received by the licensee pursuant to the mediation proceeding required by 10 **Del.C.** §5062C.
- 1.6 Credit Insurance Claims Record. The office shall maintain a credit insurance claims record containing the following information on all claims submitted by borrowers to the insurer:
- 1.6.1 the claim date;
- 1.6.2 the claim amount;
- 1.6.3 the date and amount of the payment by the insurer, or the date of rejection and the reason for the rejection;
- 1.6.4 the borrower's name and address;
- 1.6.5 the file identification number for the loan;
- 1.6.6 the reason for the claim (i.e. death, illness, etc.);
- 1.6.7 proof of death, if applicable;
- 1.6.8 a copy of any check issued by the insurance company for benefit payments or any other record of such disbursement by the insurance company; and

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- 1.6.9 a copy of any check issued by the insurance company to return unearned insurance premiums that result from pre-payment of the loan or cancellation of the insurance or any other record of such disbursements by the insurance company.
- 1.6.10 In the event a loan is sold and no servicing performed; only those items listed in this regulation that are available prior to such sale shall be required.
- 1.7 Advertising Record. The office shall maintain a record containing all advertising materials used by the licensee:
 - 1.7.1 for printed advertising, this record shall contain each advertisement indicating its type (print publication, billboard, direct mail, etc.) a listing of the publications in which printed, billboard locations by zip code, number of mailings by zip code, and the dates of publication, display or mailing;
 - 1.7.2 for radio advertising, this record shall contain a transcript of each advertisement, a listing of the stations on which each advertisement was broadcast, and for each station, the date of each broadcast;
 - 1.7.3 for television advertising, this record shall contain a transcript of the advertisement with visual depictions of each scene, a list of the stations on which each advertisement was broadcast, and for each station the date of each broadcast;
 - 1.7.4 for internet advertising, this record shall contain a copy of the advertisement.
- 1.8 Mortgage Loan Originator Register. The office shall maintain a register of all mortgage loan originators that it has employed, or who have been affiliated with it, to provide residential mortgage loan origination services. The register shall contain:
 - 1.8.1 the name of the originator;
 - 1.8.2 the originator's unique identifier issued by the Nationwide Mortgage Licensing System and Registry;
 - 1.8.3 the date that the licensee first retained the originator in that capacity; and
 - 1.8.4 the date that the originator's employment or affiliation with the licensee in that capacity ended.
- 1.9 Additional Records. The office shall maintain any other records necessary to verify the licensee's compliance with 5 Del.C. Ch. 22, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

18 DE Reg. 472 (12/01/14)

2.0 Location, Format and Retention of Records

- 2.1 All records shall be made available to the Commissioner's staff when requested.
- 2.2 Records may be maintained at the licensed office itself or at any other suitable location if they can be available within a reasonable period of time upon request.
- 2.3 All records may be maintained by paper copy or in an electronic format.
- 2.4 All records shall be retained in accordance with the time periods specified in Regulation 101, Retention of Financial Institution Records.

3.0 Variations

The Commissioner may grant written approval for variations from this regulation to accommodate specific record keeping systems. Requests for such approvals must be in writing and provide sufficient information concerning the system to ensure that the requirements of this regulation are satisfied and that the records will be readily available when requested.

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

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