

2300 Sale of Checks and Transmission of Money

2302 Exemptions

5 **Del.C.** §2304(c)

Effective Date: August 11, 2014

1.0 Purpose

This regulation governs the procedures and requirements for exemptions pursuant to 5 **Del.C.** §2304(c).

2.0 Definitions

For the purpose of this regulation, the following definitions apply:

"**Commissioner**" means the State Bank Commissioner.

"**Exempt person**" means a person exempt from any of the requirements of the Statute pursuant to 5 **Del.C.** §2304(c) and this regulation.

"**Person**" means any individual, partnership, association, joint stock association or corporation, but does not include the United States government or the government of the State of Delaware.

"**Statute**" means 5 **Del.C.** Ch. 23.

3.0 General Exemption

- 3.1 Banks, trust companies, credit unions, building and loan associations and savings and loan associations, organized under the law of any state in the United States of America or the United States of America, which either are authorized to do business in the State of Delaware, or which act through a contractor or agent authorized to do business in this State are exempt from all requirements of the Statute. Nothing contained in this regulation shall be construed to enlarge or limit the rights that any of the persons listed in this Section 3.1 have under any existing law.
- 3.2 Agents of an exempt person are exempt from the Statute to the same extent as the exemption granted to their principal.
- 3.3 Persons exempt from the Statute pursuant to this section 3.0 are not subject to any other provisions of this regulation.

4.0 Grant of Exemptions

- 4.1 Upon finding the qualifications of Section 5.0 of this regulation have been met, the Commissioner may grant an exemption to:
 - 4.1.1 any person whose operations and financial condition with respect to the transmission of money and/or the sale or issuance of checks are regularly examined, either separately or as part of an examination of an affiliate, by an agency of the State of Delaware, another state, or the United States of America; or
 - 4.1.2 any other person whom the Commissioner determines to be inappropriate to include within the coverage of the Statute.

5.0 Qualifications for Exemption

- 5.1 An exempt person shall at all times maintain:
 - 5.1.1 a net worth of at least \$100,000 computed in accordance with generally accepted accounting principles; and
 - 5.1.2 such financial responsibility, financial condition, financial and business experience, character, and general fitness as reasonably to warrant the belief that its business will be conducted honestly, fairly, equitably, carefully, and efficiently.
- 5.2 The Commissioner may investigate and consider the qualifications of the applicant for the exemption, including principals, officers and directors of an applicant, in determining whether the qualifications for an exemption have been met.

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6.0 Nature of Exemption

An exemption shall include at minimum an exemption from the licensing and surety bond requirements of the Statute. The Commissioner may also grant an exemption from any other provision of the Statute that the Commissioner deems appropriate.

7.0 Expiration

Except as otherwise provided in this regulation, exemptions shall expire on December 31 of each year.

18 DE Reg. 159 (08/01/14)

8.0 Application and Renewals

8.1 Any person who desires an exemption from the Statute shall apply to the Commissioner on such forms as the Commissioner may designate.

8.2 An exempt person shall apply for a renewal of the exemption at least 30 days before the expiration of the exemption on such forms as the Commissioner may designate.

9.0 Changed Information

Exempt persons shall notify the Commissioner within 30 days of any changes in the information contained in the application for its exemption or the renewal thereof.

10.0 Extensions on License Applications

An exempt person who applies for a license under the Statute before the expiration or revocation of its exemption shall have the exemption automatically extended until a final decision is made on the license application.

11.0 Suspension or Revocation

11.1 The Commissioner may suspend or revoke any exemption upon a finding that:

11.1.1 the exempt person has violated any statute, judicial order, administrative order, rule, regulation or other law of the State of Delaware, another state, or the United States of America;

11.1.2 any fact or condition exists, which if it had existed at the time of the application or renewal for the exemption, would have warranted the Commissioner in refusing to issue the exemption or its renewal; or

11.1.3 the exempt person has engaged in business activities or practices in connection with any business for which the exemption was granted, which could be deemed unfair or deceptive by nature of intent, including the use of tactics which mislead the consumer, misrepresent the consumer transaction or any part thereof, or otherwise create false expectations on the part of the consumer.

11.2 No exemption shall be suspended or revoked except in accordance with the procedures for suspending or revoking a license that are specified in the Statute and in the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101.

11.3 No suspension or revocation of an exemption shall impair or affect the obligation of any preexisting lawful contract between the exempt person and any other person.

12.0 Exemption Denials

12.1 If the Commissioner denies an exemption or the renewal of an exemption, the Commissioner shall promptly send the applicant or exempt person a written notice to that effect which states the grounds for the denial.

12.2 The applicant or exempt person may request that the Commissioner hold a hearing to reconsider that denial, in accordance with the procedures for requesting a hearing on the denial of a license application that are specified in the Statute and in the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101.

12.3 The Commissioner may extend the term of any exemption whose renewal has been denied until the final resolution of that hearing.

13.0 Fees

13.1 The investigation fee for an initial application for an exemption shall be \$250.00 and shall be submitted with the application.

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- 13.2 The investigation fee for renewal of an exemption shall be \$100.00. A renewal application must be submitted more than 30 days in advance of the exemption's expiration.
- 13.3 A renewal application submitted less than 30 days in advance of the exemption's expiration shall be treated as a new application for an exemption and shall be subject to the investigation fee of \$250.

11 DE Reg. 693 (11/01/07)

18 DE Reg. 159 (08/01/14)