

2900 Financing the Sale of Motor Vehicles

2902 Minimum Records

5 Del.C. §2906(e)

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1.1.1.4 the date of the credit decision, or the date the application was withdrawn; and

1.1.1.5 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 1.1.1.3 of this regulation;

1.1.2.2 the date the loan was granted;

1.1.2.3 the annual percentage rate for the loan;

1.1.2.4 the amount of the loan; and

1.1.2.5 the lender's name and address.

1.2 Applicant Record. For each applicant not granted credit, the office shall maintain a record containing all documents relating 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 any document specifying the reasons that credit was not granted; and

1.2.5 all other written communications with the applicant.

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

1.3.1 the information and documents specified in §§1.2.1 through 1.2.3 of this regulation;

1.3.2 the loan contract;

1.3.3 the date the loan was granted;

1.3.4 the face amount of the loan;

1.3.5 the total sale price of the motor vehicle financed;

1.3.6 the annual percentage rate for the loan and the amount of all other charges;

1.3.7 the repayment terms;

1.3.8 the vehicle identification number (VIN);

1.3.9 all disclosures related to the loan that are required by the Federal Truth-in-Lending Act, as amended, and the regulations thereunder;

1.3.10 the names of any endorsers, co-makers, guarantors, or sureties;

1.3.11 the actual date of receipt of each payment of principal and charges;

1.3.12 a breakdown of how payments have been applied to interest, principal and fees;

1.3.13 the name of any assignee or purchaser of the retail installment contract;

1.3.14 the current balance due on the principal;

1.3.15 any workout agreement;

1.3.16 any credit related insurance contracts;

1.3.17 copies of any non-insurance products sold by the licensee to the borrower related to the credit transaction;

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- 1.3.18 evidence that a retained title or lien was released within the time period prescribed in §4 of Regulation 2901;
 - 1.3.19 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; and
 - 1.3.20 all other written communication with the borrower.
- 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 related to retail installment accounts. Details of disbursements to or for the account of borrowers shall be itemized.
- 1.5 Litigation and Enforcement of Security Interest Record.
- 1.5.1 Litigation. The office shall maintain in an individual file or 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 correct 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 motor vehicle without a judicial proceeding, or in which the borrower has voluntarily surrendered the motor vehicle.
 - 1.5.3 In addition to all other information required 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 motor vehicle, or the borrower's voluntary surrender of the motor vehicle;
 - 1.5.3.2 the vehicle identification number (VIN);
 - 1.5.3.3 the date the licensee acquired possession of the motor vehicle;
 - 1.5.3.4 a description of the motor vehicle;
 - 1.5.3.5 copies of all documents filed with, or issued by, the court or arbitrator;
 - 1.5.3.6 the date and terms of any judgment, arbitration decision, dismissal or settlement;
 - 1.5.3.7 the date of the sale of the motor vehicle;
 - 1.5.3.8 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;
 - 1.5.3.9 evidence that the borrower was notified of the time and place of the sale;
 - 1.5.3.10 evidence of any amount paid to a third party; and
 - 1.5.3.11 any other documents sent or received by the licensee pursuant to 6 **Del.C.** Article 9. Secured Transactions, Part 6. Default.
- 1.6 Credit Insurance Claims Record
- 1.6.1 The office shall maintain a credit insurance claims record containing the following information on all claims submitted by borrowers to the insurer:
 - 1.6.1.1 the claim date;
 - 1.6.1.2 the claim amount;
 - 1.6.1.3 the date and amount of the payment by the insurer, or the date of rejection and the reason for the rejection;
 - 1.6.1.4 the borrower's name and address;
 - 1.6.1.5 the file identification number;
 - 1.6.1.6 the reason for the claim (i.e. death, illness, etc.);
 - 1.6.1.7 proof of death, if applicable;
 - 1.6.1.8 a copy of any check issued by the insurance company for benefit payments or any other record of such disbursements by the insurance company; and
 - 1.6.1.9 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.

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- 1.7 Advertising Record. The office shall maintain a record containing copies of all advertising materials used by the licensee:
- 1.7.1 for printed advertising, this record shall contain a copy of 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 Additional Records. The office shall maintain any other records necessary to verify the licensee's compliance with 5 **Del.C.** Ch. 29, 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 Examination 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)