Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF STATE

OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Sections 121(b), 2112, 2210(e), and 2906(e);
29 Delaware Code, Section 10113(a)
(5 **Del.C.** §§121(b), 2112, 2210(e), and 2906(e); 29 **Del.C.** §10113(a))
5 **DE Admin.Code** 2101, 2102, 2103, 2104, 2105, 2106, 2201, 2202, 2203, 2204, 2205, 2206, 2901, 2902, 2903, and 2904

PROPOSED

PUBLIC NOTICE

Notice of Proposed Amendments to Regulations of the State Bank Commissioner
2902 Motor Vehicle Sales Finance Companies Operating Regulations

Summary

The State Bank Commissioner proposes to amend 16 Regulations adopted in accordance with Title 5, Chapter 21 (Mortgage Loan Brokers), Chapter 22 (Licensed Lenders) and Chapter 29 (Financing the Sale of Motor Vehicles). Regarding Title 5, Chapter 21 (Mortgage Loan Brokers), the proposed amended Regulations are 2101 (Operating Regulation), 2102 (Minimum Records), 2103 (Schedule of Charges), 2104 (Minimum Disclosure and Agreement Requirements), 2105 (Report of Delaware Loan Volume), and 2106 (Report of Delaware Assets). Regarding Title 5, Chapter 22 (Licensed Lenders), the proposed amended Regulations are 2201 (Operating Regulation), 2202 (Minimum Records), 2203 (Schedule of Charges), 2204 (Surety Bond or Irrevocable Letter of Credit), 2205 (Report of Delaware Loan Volume), and 2206 (Report of Delaware Assets). Regarding Title 5, Chapter 29 (Financing the Sale of Motor Vehicles), the proposed amended Regulations are 2901 (Operating Regulation), 2902 (Minimum Records), 2903 (Report of Delaware Loan Volume), and 2904 (Report of Delaware Assets). The purpose of the amended regulations is to clarify, streamline, and update the existing regulations for ease of understanding and increased relevance to current licensee operations. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing these proposed regulations in accordance with Title 5 of the Delaware Code. This notice is issued pursuant to the requirements of Subchapter III of Chapter 11 and Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the February 1, 2014 edition of the Delaware *Register of Regulations*. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before March 5, 2014, Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after March 5, 2014, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulations 2101, 2102, 2103, 2104, 2105, 2106, 2201, 2202, 2203, 2204, 2205, 2206, 2901, 2902, 2903, and 2904 or make additional changes because of the public comments received.

~~2101 Mortgage Loan Brokers Operating Regulations~~
~~5 **Del.C.** §2102(b) and §2112~~

~~Formerly Regulation No.: 5.2112.0001~~
~~Effective Date: December 11, 2009~~

~~1.0 Application of Chapter~~

~~1.1 Chapter 21 of Title 5 of the **Delaware Code** governs persons who broker extensions of credit secured by a first or second mortgage on any one-to-four family residential owner-occupied property intended for personal, family, or household purposes. Chapter 21 of Title 5 of the **Delaware Code** does not apply to the brokering of commercial mortgage loans, including a first or second mortgage on any income producing property that does not fall into the aforementioned definition.~~

2.0 Maintenance of Copies of Applicable Regulations

2.1 All licensees shall conduct business in compliance with Chapter 21 of Title 5 of the **Delaware Code**, and all regulations issued thereunder. Each office licensed under Chapter 21 of Title 5 of the **Delaware Code** shall maintain copies of all applicable regulations. These regulations include:

2.1.1 Regulation 2101 (formerly 5.2112.0001) - Mortgage Loan Brokers Operating Regulations;

2.1.2 Regulation 2102 (formerly 5.2111(a).0002) - Mortgage Loan Brokers Minimum Requirements for Content of Books and Records;

2.1.3 Regulation 2103 (formerly 5.2115.0003) - Mortgage Loan Brokers Itemized Schedule of Charges;

2.1.4 Regulation 2104 (formerly 5.2113.0004) - Mortgage Loan Brokers Minimum Disclosure Requirements;

2.1.5 Regulation 2105 (formerly 5.2111(b).0005) - Report of Delaware Loan Volume;

2.1.6 Regulation 2106 (formerly 5.2111/2210/2906.0006) - Report of Delaware Assets;

2.1.7 Regulation 2107/2208 Guidance on Nontraditional Mortgage Product Risks;

2.1.8 Regulation 2108/2209 Statement on Subprime Mortgage Lending; and

2.1.9 Regulation 101 (formerly 5.141.0001.NC) - Retention of Financial Institution Records.

2.2 The manager and staff of each office shall familiarize themselves with all of the aforementioned regulations. The licensee shall inform the Office of the State Bank Commissioner if copies of the regulations are lost or misplaced and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both §2111(a) of Title 5 of the **Delaware Code** and this regulation.

13 DE Reg. 862 (12/01/09)

3.0 Fees for Examination and Supervisory Assessment

3.1 Mortgage Loan Broker licensees are subject to examination pursuant to §2110 of Title 5 of the **Delaware Code**. The costs of such examinations are assessed to the licensees in accordance with §127(a) of Title 5 of the **Delaware Code**. A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for examination. In addition, the Commissioner assesses annually each licensee a supervisory assessment, due and payable on August 1 each year, as provided in §127(b) of Title 5 of the **Delaware Code**. Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the **Delaware Code**.

4.0 Representations at Mortgage Loan Closings

4.1 At no time shall a mortgage loan close in the name of the mortgage loan broker except for the sole purpose of satisfying requirements for VA government loans.

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

2102 Mortgage Loan Brokers Minimum Requirements for Content of Books and Records
5 **Del.C.** §2111(a)

Formerly Regulation No.: 5.2111(a).0002
Effective Date: November 12, 1999

Each licensed office shall establish and maintain the following books and records, on a current basis, either at the office of the licensed broker, or at a suitable location available within a reasonable time period, upon request. Written approval may be granted for variations that accommodate individual accounting systems, including automated and electronic record processing systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested. The following records shall be maintained in accordance with the time periods provided in Regulation 101 (formerly No. 5.141.0001.NC) Retention of Financial Institution Records.

1.0 Applicant Register

This record shall show the name of the applicant, identifying file number, date application was filed, name of lender, date of commitment, amount of broker's fee, and date fee was paid. In the case of an applicant denied credit, the register shall contain the name of the applicant, identification number, date application was filed and, if known, date application was denied and reason for denial.

~~2.0~~ ~~Individual Records of Applicant~~

~~A file of all documents, invoices and/or other obligations for each applicant shall be maintained and shall include the following:~~

~~2.1~~ ~~Name and address of the applicant;~~

~~2.2~~ ~~Identifying number;~~

~~2.3~~ ~~Date of application/broker's agreement;~~

~~2.4~~ ~~A copy of the mortgage loan broker agreement containing original signature(s) of applicant(s), or a certified copy thereof;~~

~~2.5~~ ~~A copy of all invoices or other evidence of expenses incurred in connection with the mortgage loan including, but not limited to, the property appraisal, title certificate, and credit report;~~

~~2.6~~ ~~A copy of all receipts provided to the applicant(s) for amounts paid to the broker;~~

~~2.7~~ ~~A record of all fees collected by the broker in accordance with Regulation No. 2103 (Formerly 5.2115.0003) Mortgage Loan Broker Regulations Itemized Schedule of Charges;~~

~~2.8~~ ~~Name of lender;~~

~~2.9~~ ~~Copy of the commitment;~~

~~2.10~~ ~~Date and amount of broker fee collected; and~~

~~2.11~~ ~~Evidence of any refunds and an explanation of the refunds.~~

~~3.0~~ ~~Record of Litigation~~

~~All files on applicants who initiate litigation against the licensee or who are sued by the licensee, shall be maintained in a separate litigation section of the files and shall include the following:~~

~~3.1~~ ~~All original paper or a certified copy thereof;~~

~~3.2~~ ~~Date and terms of judgment.~~

~~4.0~~ ~~Advertising~~

~~Copies of all printed or other advertising materials circulated by the mortgage loan broker.~~

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

~~2103 Mortgage Loan Broker Regulations Itemized Schedule of Charges~~

~~5 **Del.C**. §2115~~

~~Formerly Regulation No. 5.2115.0003~~
~~Effective Date: November 12, 1999~~

~~1.0~~ ~~Notification~~

~~Every licensee shall make available for review to every applicant, a copy of this regulation at the time when such application is made. Posting of this regulation in the office of the licensee in a place both prominent and easily visible to all potential applicants shall satisfy this requirement. An explanation as to the contents and limitations contained herein shall satisfy this requirement when transactions occur telephonically. An informational screen containing these limitations with an affirmative acknowledgement by the consumer prior to application shall satisfy this requirement for internet transactions.~~

~~2.0~~ ~~Fees Permissible for Collection Prior to Receipt of a Written Commitment~~

~~In connection with the application for credit and on behalf of the borrower, the following fees subject to the limitations enumerated herein may be collected prior to the receipt of a written commitment from a bona fide lender:~~

~~2.1~~ ~~Property appraisal fees shall be limited to the amount paid to a third-party for such appraisal and shall be limited to those amounts that are customary and reasonable;~~

~~2.2~~ ~~Credit report fees shall be limited to the actual cost of the report, the amount of which was paid to a third-party. Such amounts shall be customary and reasonable;~~

~~2.3~~ ~~Title examination fees and/or title insurance shall be limited to those amounts actually expended for such purposes. Such amounts shall be customary and reasonable;~~

~~2.4~~ ~~Returned check charges may be assessed to consumers, provided the amounts of such charges are customary and reasonable for checks that are returned unpaid;~~

2.5 Other bona fide third-party fees actually and reasonably paid or incurred on behalf of the borrower. Such other fees shall not be incurred without the express permission of the borrower and shall be limited to amounts actually paid or incurred. Such amounts shall be customary and reasonable;

2.6 An application fee may be imposed in lieu of the fees itemized above (excluding item 2.4) provided the amount of such application fee reasonably reflects the anticipated amounts of all appropriate fees and amounts collected in excess of such actual costs shall be refunded. Those fees which reasonably exceed the anticipated amounts shall be payable by the borrower.

2.7 Fees associated with the commitment of a specific interest rate, to be held for a specified period of time, may be collected in accordance with a signed rate lock agreement, provided the fees are payable to the lender.

3.0 Fees Permissible for Collection Upon or After Receipt of a Written Commitment or Pre-Approval and Prior to Consummation of the Mortgage Loan

3.1 Fees associated with loan commitments, if such fees are required by the lender upon receipt of a written commitment, provided the fees are payable to the lender.

3.2 Fees that the lender may require in advance of a loan closing, provided, however, that such fees are paid directly to the lender or third-party provider.

3.3 This section shall not prohibit the collection of fees otherwise permitted under item 2 of this regulation, if such fees are collected after receipt of a written commitment or pre-approval.

4.0 Collection of Fees in the Name of the Mortgage Loan Broker

Notwithstanding the limitations under items 2.7 and 3.0, a mortgage loan broker may collect the fees authorized in items 2.7 and 3.0 of this regulation, in the mortgage loan broker's own name, if required by the lender.

5.0 Fees for Mortgage Loan Broker Services

A fee may be collected from a bona fide lender, in accordance with the mortgage loan broker agreement, at closing or following the recissionary period (for loans which qualify for recission under the Federal Truth-in-Lending Act). In no event shall the aggregate points charged to the borrower exceed ten percent of the principal amount of the loan. Such point limitation shall apply to points assessed by the lender on the lender's behalf, together with points charged by the lender on behalf of any other party to the transaction. The total compensation paid to a mortgage loan broker shall reasonably reflect the value of the goods and services provided.

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

2104 Mortgage Loan Brokers Minimum Disclosure Requirements
5 **Del.C**. §2113

Formerly Regulation No.: 5.2113.0004
Effective Date: November 12, 1999

1.0 Advertising

1.1 When a licensed mortgage loan broker advertises with respect to a mortgage loan, the advertisement shall clearly and conspicuously state that the broker is a licensed mortgage loan broker.

2.0 Written Agreement

2.1 The mortgage loan broker shall enter into a separate, signed, written agreement with the potential borrower, independent of the loan agreement. The terms of such agreement shall be disclosed to the potential borrower before the payment of any nonrefundable fee. A copy of the agreement shall be provided to the prospective borrower at the time he signs the agreement. The agreement shall contain, at a minimum:

2.1.1 The name of the mortgage loan broker;

2.1.2 The name of the prospective borrower;

2.1.3 The date of the agreement and the period for which it shall remain in effect;

2.1.4 A statement that the mortgage loan broker is not the credit provider;

2.1.5 A complete description of the services the mortgage loan broker undertakes to perform for the prospective borrower;

2.1.6 A specific statement of the circumstances under which the mortgage loan broker will be entitled to obtain or retain consideration from the party with whom the mortgage loan broker contracts;

2.1.7 An estimate of the costs of the broker's services which may be expressed as a dollar amount or range together with the maximum cost of services. Such maximum cost shall be expressed as follows: "In no event shall the cost of these services exceed _____." Such amounts shall include all compensation paid to the broker whether paid directly or indirectly;

2.1.8 A statement as to which fees are refundable and nonrefundable and under what circumstances a fee may be refundable; and

2.1.9 A statement that the borrower may be entitled to the refund of certain monies paid to the mortgage loan broker if he exercises his right to rescind under the Federal Truth-in-Lending Act.

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

2105 Report of Delaware Loan Volume
5 **Del.C**. Ch. 21

Formerly Regulation No.: 5.2111(b).0005
Effective Date: November 12, 1999

This report shall be completed by all institutions licensed under Chapter 21, Title 5 of the **Delaware Code** and submitted to the Office of the State Bank Commissioner twice each year. The first report is due on or before July 31 and must contain figures from January 1 through June 30 of the current year. The second report is due on or before January 31 and must contain figures from January 1 through December 31 of the previous year. In the event that you fail to provide this information in the period requested, you will be in violation of this regulation. Additionally, an examination will be scheduled, and staff allocated, without respect to the volume of your Delaware business. This may result in additional examination costs to you.

Licensees with multiple licensed locations, whose loan files are serviced at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed location.

The Report of Delaware Loan Volume can be found at:

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

2105A.pdf Report of Delaware Loan Volume

2106 Report of Delaware Assets

Formerly Regulation No.: 5.2111/2210/2906.0006
Effective Date: March 12, 1998

This report shall be completed annually by all institutions licensed under Chapters 21, 22, and 29, Title 5 of the **Delaware Code**. This report must be received by the Office of the State Bank Commissioner no later than April 1st of each year. The figure reported should reflect DELAWARE assets only (including the value of any Delaware loans or contracts in your portfolio, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).

The Report of Delaware Assets is available at:

2106A.pdf Report of Delaware Assets

2201 Licensed Lenders Operating Regulations
5 **Del.C.** §2210(d)

Formerly Regulation No.: 5.2210(d).0001
Effective Date: December 11, 2009

1.0 Application of Chapter

1.1 Chapter 22 of Title 5 of the **Delaware Code** applies to consumer credit transactions, including, but not limited to, mortgage lending secured by one to four family residential, owner-occupied property intended for personal, family or household purposes.

~~2.0 Maintenance of Operating Regulations for Licensed Lenders~~

~~2.1 All licensees shall conduct business in compliance with Chapter 22 of Title 5 of the **Delaware Code**. Each office licensed under Chapter 22 of Title 5 of the **Delaware Code** shall possess copies of all applicable regulations. These regulations include:~~

~~2.1.1 Regulation 2201 (formerly 5.2210(d).0001) Licensed Lenders Operating Regulations;~~

~~2.1.2 Regulation 2202 (formerly 5.2213.0002) Licensed Lenders Minimum Requirements for Content of Books and Records;~~

~~2.1.3 Regulation 2203 (formerly 5.2218/2231.0003) Licensed Lenders Itemized Schedule of Charges;~~

~~2.1.4 Regulation 2204 (formerly 5.2208.0004) Required Amount of Licensed Lender's Surety Bond or Irrevocable Letter of Credit;~~

~~2.1.5 Regulation 2205 (formerly 5.2210(e).0005) Report of Delaware Loan Volume;~~

~~2.1.6 Regulation 2206 (formerly 5.2111/2210/2906.0006) Report of Delaware Assets;~~

~~2.1.7 Regulation 2107/2208 Guidance on Nontraditional Mortgage Product Risks;~~

~~2.1.8 Regulation 2108/2209 Statement on Subprime Mortgage Lending; and~~

~~2.1.9 Regulation 101 (formerly 5.141.0001.NC) Retention of Financial Institution Records.~~

~~2.2 The manager and staff of each office shall familiarize themselves with all of the aforementioned regulations. The licensee shall inform the Office of the State Bank Commissioner if copies of the regulations are lost or misplaced and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both §2213 of Title 5 of the **Delaware Code** and this regulation.~~

~~**13 DE Reg. 862 (12/01/09)**~~

~~3.0 Fees for Examination and Supervisory Assessment~~

~~3.1 Licensed Lenders licensees are subject to examination pursuant to §2210 of Title 5 of the **Delaware Code**. The costs of such examinations are assessed to the licensees in accordance with §127(a) of Title 5 of the **Delaware Code**. A licensee shall remit payment not later than 30 days after the date of the invoice for the examination. In addition, the Commissioner annually assesses each licensee a supervisory assessment, due and payable on August 1 each year, as provided in §127(b) of Title 5 of the **Delaware Code**. Failure of a licensee to remit timely payment of this examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the **Delaware Code**.~~

~~4.0 Mortgage Satisfaction/Security Interest~~

~~4.1 A licensee shall cause an entry of the satisfaction or performance of a debt or duty secured by a mortgage or conveyance in the nature of a mortgage on real estate to be made as required by Chapter 21 of Title 25 of the **Delaware Code**. A licensee shall take the necessary action(s) to discharge or release any other security interest for loans under Chapter 22 of Title 5 of the **Delaware Code** within sixty days from the date the debt secured by such other collateral or security interest is satisfied or performed. Failure of a licensee to take such action within the period prescribed will be a violation of this regulation.~~

~~5.0 Principal Reduction~~

~~5.1 No loan shall be made under the provisions of this Chapter that does not allow for a reduction of principal over the term of the loan unless it is a product available through federal governmental or quasi-governmental entities.~~

~~6.0 Credit Life and Credit Health Insurance~~

~~6.1 Any lender may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to all statutes of the Insurance Code of the State of Delaware as well as rules and regulations that the Insurance Commissioner may prescribe from time to time.~~

~~6.2 Every lender offering credit life and health insurance whose charges do not conform to those authorized in the Insurance Commissioner's Regulation 2501 (formerly regulation No. 5) shall maintain in each office a copy of a letter filed with the Insurance Commissioner requesting the deviated rate as well as approval by the Insurance Commissioner of the rate.~~

~~6.3 Credit life insurance refunds shall be calculated as of the date of death.~~

6.4 Credit health insurance payments received by the lender shall be applied to the account for the period the payment actually covers regardless of the date of receipt. Additional interest charges shall not accrue should payment be received after the payment due date.

6.5 The Office of the State Bank Commissioner shall provide a copy of the Insurance Commissioner's Regulation 2501 (formerly regulation No. 5) and any subsequent applicable regulations promulgated to each licensee.

7.0 Other Insurance

7.1 Any lender may require proof of insurance coverage for any loan secured by a motor vehicle, real property (real estate), or other collateral. Borrower has the right to submit any existing policy(s) naming lender as beneficiary as his/her interest may appear, provided such policy is acceptable to the lender as to coverage, prepaid term and the carrier meets required financial standards. Upon notification to the lender of cancellation of any policy for non-payment, lender may place coverage to secure his/her interest. Borrower shall be informed of such placement and any amount expended shall be due and payable by the borrower before a loan may be satisfied. Any lender may, if requested by the borrower, place such insurance coverage as is necessary to secure his/her interest at the inception of the loan.

7.2 A licensee may offer, but not require, such other insurance products as the State Bank Commissioner may, upon written approval, permit. No such insurance may be offered without the State Bank Commissioner's written approval.

8.0 Borrower-Signed Authorization for Insurance

8.1 Any insurance authorized by this regulation, other than the insurance coverage authorized by section 7.1 of this regulation, must be supported by a specific request signed by the borrower. This request shall be attached to or made a part of the application documents.

9.0 Purchase or Sale of Accounts by Licensed Lenders

9.1 A licensee shall not sell or otherwise transfer contracts to any person or corporation not licensed under Chapter 22 of Title 5 of the **Delaware Code**, except at the discretion of the State Bank Commissioner.

9.2 Purchasers shall be limited to collecting balances due under the existing contract terms and shall be bound by applicable Delaware laws regarding legal fees and usury statutes if a loan is subsequently refinanced.

9.3 This section shall not apply to:

9.3.1 The purchase or transfer of loan contracts between licensees under the same management or control;

9.3.2 The sale or transfer of a loan contract to an out-of-state affiliate for collection or for the convenience of a consumer;

9.3.3 The transfer of a loan contract by a licensee to any maker or person secondarily liable on the contract; and,

9.3.4 The sale of a participation or a whole loan to a federal, state, or local government agency, or to a federal or state regulated bank, savings and loan association, mortgage banking company, insurance company or investment banking firm or their subsidiaries.

10.0 Origination of Mortgage Loans for Resale

10.1 Solely for the purposes of the loan limitation provisions contained in the last sentence of Section 2228(a) of Title 5 of the **Delaware Code**, the term "loans" shall not be deemed to include loans secured by mortgages on real property located in this state (or secured by certificates of stock or other evidence of ownership interest in, and proprietary leases from corporations or partnerships formed for the purpose of cooperative ownership of real estate in this State) if such loans are originated by a licensee for resale and the licensee in fact sells, assigns or otherwise conveys its entire interest in the loan (except servicing if servicing is retained) within 120 days following the date the loan is made. Additional time may be granted at the discretion of the State Bank Commissioner.

2 DE Reg. 781 (11/01/98)

2202 Licensed Lenders Minimum Requirements for Content of Books and Records

5 **Del.C.** §2213

Formerly Regulation No.: 5.2213.0002
Effective Date: November 12, 1999

~~Each licensed office shall establish and maintain the following books and records, including automated and electronic record processing systems, on a current basis, either at the office of the licensed lender, or, at a suitable location available within a reasonable time period, upon request. Written approval may be granted for variations that accommodate individual accounting systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested. The following records shall be maintained in accordance with the time periods provided in Regulation No.101 (formerly regulation 5.141.0001.NC) Retention of Financial Institutions Records:~~

~~1.0 Loan Register~~

~~This record shall show the account number, date of loan, name of borrower, type of security, contract rate or annual percentage rate, and amount of loan. In the case of an applicant denied credit, the register shall contain the name of the applicant, identification number, date application was filed and, if known, date application was denied and reason for denial.~~

~~2.0 Individual Accounts with Borrowers~~

~~A record or ledger sheet shall be kept for each borrower and shall include the following:~~

~~2.1 Name and address of the borrower;~~

~~2.2 Loan number;~~

~~2.3 Face amount of loan;~~

~~2.4 Date of loan;~~

~~2.5 Rate of interest charges and the amounts of all charges;~~

~~2.6 Terms of repayment;~~

~~2.7 Type of security;~~

~~2.8 Where and to whom hypothecated;~~

~~2.9 Names of endorsers, co-makers, guarantors, or sureties;~~

~~2.10 The actual date of receipt of payment of principal and charges; and,~~

~~2.11 Name of assignee of mortgage note.~~

~~In addition, the record or ledger sheet shall be kept in such manner as to show at once the balance due on principal.~~

~~3.0 File of All Original Paper - (or copies thereof)~~

~~All obligations and disclosure forms signed by the borrower and taken in connection with loans made shall bear the loan number, shall be maintained in one file, and shall be made available to the examiners when requested. Such file, if applicable, shall include evidence that a mortgage of record has been appropriately removed.~~

~~4.0 Daily Transaction Record~~

~~All transactions involving either the receipt or disbursement of any amount whatsoever shall be recorded. Details of disbursements to, or for the account of, borrowers shall be itemized.~~

~~5.0 Record of Loans in Litigation and Repossessions~~

~~A record of all loans in litigation, repossessions, or voluntary surrenders shall be maintained either on the borrower's account record or a litigation record. If a composite record of such loans is not kept, the loans shall be maintained in a separate litigation and repossession file. The litigation and repossession record shall disclose the following information:~~

~~5.1 Loan number, original amount of loan and unpaid balance;~~

~~5.2 Type of security foreclosed, attached, replevined, repossessed, or surrendered;~~

~~5.3 Date and terms of settlement of account or, if after judgment, prejudgment balance, current balance, unearned charges credited to borrower's account, and legal costs;~~

~~5.4 Evidence that the terms of sale were fair to the borrower, if the security was sold after repossession; and,~~

~~5.5 Records of litigation accounts handled by attorneys or corporate collection centers shall be maintained in the branch office and should reflect a correct current balance.~~

~~6.0~~ ~~Credit Insurance Claims Register~~

~~A credit insurance claims register or file that is a record of all claims submitted by borrowers to the insurer shall disclose the following:~~

~~6.1~~ ~~Date of claim~~

~~6.2~~ ~~Amount of claim;~~

~~6.3~~ ~~Date and amount of payment by insurer or the date of rejection and the reason therefor;~~

~~6.4~~ ~~Borrower's name;~~

~~6.5~~ ~~Loan number;~~

~~6.6~~ ~~Reason for claim (i.e. death, illness, etc.);~~

~~6.7~~ ~~Proof of death;~~

~~6.8~~ ~~A copy of the check(s) issued by, or other record of disbursement by, the insurance company in payment of life, accident, health, or accident and health benefits; and,~~

~~6.9~~ ~~A copy of the check(s) issued by, or other record of disbursement by, the insurance company to rebate unearned insurance premiums, which result from pre-payment of the loan or cancellation of the insurance.~~

~~**7.0**~~ ~~In the event a loan is sold and no servicing performed, only those items listed in item 6.0 available prior to such sale shall be required.~~

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

~~2203 Licensed Lenders Regulations Itemized Schedule of Charges~~

~~5 **Del.C.** §2218(5) and §2231(3)~~

~~Formerly Regulation No. 5.2218/2231.0003~~
~~Effective Date: November 12, 1999~~

~~1.0~~ ~~Notification~~

~~Every licensee shall furnish to every applicant, a copy of this regulation at the time when such application is made. Posting of this regulation in the office of the licensee in a place both prominent and easily visible to all potential applicants shall satisfy this requirement. An explanation as to the contents and limitations contained herein shall satisfy this requirement when transactions occur telephonically. An informational screen containing these limitations with an affirmative acknowledgment by the consumer, prior to application, shall satisfy this requirement for internet transactions.~~

~~2.0~~ ~~Interest~~

~~2.1~~ ~~A lender may charge and collect interest in respect to a revolving credit plan or closed end loan at such daily, weekly, monthly, annual, or other periodic percentage rate or rates as the agreement governing the plan or loan provides, or as established in the manner provided in such agreement. Periodic interest may be calculated on a revolving credit plan using any balance computation method provided for in the agreement governing the plan. Periodic interest may be calculated on a closed end loan by way of simple interest or such other method as the agreement governing the loan provides.~~

~~2.2~~ ~~If the agreement governing the revolving credit plan or closed end loan so provides, the periodic percentage rate or rates of interest may vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to all or any part of the outstanding unpaid indebtedness or outstanding unpaid amounts. In the case of revolving credit, such rate shall become applicable on or after the first day of the billing cycle that contains the effective date of such variation. In the case of closed end loan transactions, such rate may be made applicable to all or any part of the outstanding unpaid amounts on and after the effective date of such variation. Without limitation, a permissible schedule or formula hereunder may include provisions in the agreement governing the revolving credit plan or closed end loan agreement for a change in the periodic percentage rate or rates of interest applicable to all or any part of outstanding unpaid indebtedness or outstanding unpaid amounts, whether by variation of the then applicable periodic percentage rate or rates of interest, variation of an index or margin or otherwise, contingent upon the happening of any event or circumstance specified in the plan or agreement, which event or circumstance may include the failure of the borrower to perform in accordance with the terms of the revolving credit plan or loan agreement.~~

~~3.0~~ ~~Additional Fees and Charges; Limitations~~

~~If the agreement governing the plan or loan so provides, in addition to, or in lieu of, interest at a periodic percentage rate or rates permitted by Chapter 22, Title 5 of the **Delaware Code**, the licensee may charge and collect the following fees and charges, subject to the limitations provided below, in respect to revolving credit plans or closed end loans:~~

~~3.1 Revolving Credit – with respect to a borrower, a lender may charge, collect, or receive one or more of the following fees and charges under plans subject to the provisions of Subchapter II, Chapter 22, Title 5 of the **Delaware Code**:~~

~~3.1.1 periodic charges – a daily, weekly, monthly, annual or other periodic charge in such amount or amounts as the agreement may provide for the privileges made available to the borrower under the plan;~~

~~3.1.2 transaction charges – a transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase or loan under the plan;~~

~~3.1.3 minimum charges – a minimum charge in such amount or amounts as the agreement may provide for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan;~~

~~3.1.4 fees for services rendered or reimbursement of expenses – reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agent in connection with such loan, including without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrower's default or other credit loss, or costs incurred by reason of examination of title, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney's fees and travel expenses. In the event a borrower defaults under the terms of a plan, the licensee may, if the borrower's account is referred to an attorney (not a regularly salaried employee of the licensee) or to a third party for collection and if the agreement governing the revolving credit plan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following a borrower's default, the licensee may, if the agreement governing the plan so provides, recover from the borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the licensee;~~

~~3.1.5 overlimit charges – a charge in such amount or amounts as the agreement may provide, for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which the total outstanding indebtedness exceeds the credit limit established under the plan;~~

~~3.1.6 delinquency charges – a late or delinquency charge upon any outstanding unpaid installment payments or portions thereof under the plan which are in default; provided, however, that no more than 1 such late or delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further, however, that for the purpose only of the preceding provision all payments by the borrower shall be deemed to be applied to satisfaction of installment payments in the order in which they become due;~~

~~3.1.7 returned check charges – a returned check charge may be assessed to consumers, in such amount or amounts as the agreement may provide, provided the amount(s) of such charges are customary and reasonable for checks that are returned unpaid;~~

~~3.1.8 termination fees – a charge in such amount or amounts as the agreement may provide to terminate a revolving credit plan;~~

~~3.1.9 charges incurred in connection with real estate secured transactions – in the case of revolving credit secured by real estate such additional charges as outlined in item 3.3 of this regulation may also be collected within the limitations stated therein.~~

~~3.2 Closed End Credit – with respect to a borrower, a lender may charge, collect, or receive one or more of the following fees and charges for loans subject to the provisions of Subchapter III, Chapter 22, Title 5 of the **Delaware Code**:~~

~~3.2.1 fees for services rendered or reimbursement of expenses – reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agent in connection with such loan, including without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrower's default or other credit loss, or costs incurred by reason of examination of title, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney's fees and travel expenses. In the event a borrower defaults under the terms of the loan, the licensee may, if the borrower's account is referred to an attorney (not a regularly salaried employee of the licensee) or to a third party for collection and if the agreement governing, or the bond, note or other evidence of, the loan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following a borrower's default, the licensee may, if the agreement governing, or the bond, note or other evidence of, the loan so provides, recover from the~~

~~borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the licensee;~~

~~3.2.2 deferral charges -- a deferral charge may be assessed to a borrower in accordance with an agreement to permit the borrower to defer installment payments of a loan;~~

~~3.2.3 delinquency charges -- if the agreement governing the loan so provides, a late or delinquency charge may be imposed upon any outstanding unpaid installment payment or portions thereof under the loan agreement which are in default; provided, however, that no more than 1 such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further that no such delinquency charge may exceed 5% of the amount of any such installment or portion thereof in default;~~

~~3.2.4 returned check charges -- if the agreement governing the loan so provides, a returned check charge may be assessed to consumers, for checks that are returned unpaid provided the amount(s) of such charges are customary and reasonable;~~

~~3.2.5 charges incurred in connection with real estate secured transactions -- in the case of closed end credit secured by real estate such additional charges as outlined in item (3)(c) of this regulation may also be collected within the limitations stated therein.~~

~~3.3 Real Estate Secured Transactions -- with respect to a borrower, a lender may charge, collect, or receive one or more of the following fees and charges subject to the limitations herein, for loans subject to the provisions of Subchapters II (Revolving Credit) and III (Closed End Credit), Chapter 22, Title 5 of the **Delaware Code** when such loans are secured by real estate:~~

~~3.3.1 loan origination points -- points charged to the borrower on the lender's behalf for any purpose other than to reduce the periodic interest rate applicable to the mortgage loan may not exceed 10% of the principal amount of the loan. Such points may be deducted from the gross proceeds of the loan. For purposes of this regulation "gross proceeds" is the amount financed as defined in Federal Reserve Regulation Z;~~

~~3.3.2 loan discount points -- points charged to the borrower as a function of rate for the purpose of reducing the periodic interest rate applicable to the mortgage loan. Such points may be deducted from the gross proceeds of the loan;~~

~~3.3.3 property appraisal fees -- property appraisal fees shall be limited to the amount paid to a third party for such appraisal and shall be limited to those amounts that are customary and reasonable;~~

~~3.3.4 credit report fees -- credit report fees shall be limited to the actual cost of the report if paid to a third party, not an employee of the lender or affiliate. Such amounts shall be customary and reasonable;~~

~~3.3.5 mortgage loan broker compensation fees -- mortgage loan broker compensation may be deducted from the gross proceeds of the loan. Such amounts shall reasonably reflect the value of the goods, services and facilities provided;~~

~~3.3.6 tax certification and service fees -- fees for agreements to provide certification of the current tax status of the property as well as fees for ongoing monitoring and notice to the lender of all tax and improvement lien payments as they become due shall be limited to those amounts actually expended for such purposes. Such amounts shall be customary and reasonable;~~

~~3.3.7 flood hazard certification or determination fees -- determination fees may be charged for determining whether the property is or will be located in a special flood hazard area. This fee may also include the cost of life-of-loan monitoring. Such amounts shall be customary and reasonable;~~

~~3.3.8 title abstract/search/examination and title insurance premiums -- title insurance and/or cost of a title certificate, search, examination and binder shall be limited to those amounts actually expended for such purposes. Such amounts shall be customary and reasonable and may, at the borrower's discretion, include owner's coverage in addition to lender's coverage;~~

~~3.3.9 legal fees -- legal fees incurred in securing or closing a loan shall be limited to amounts actually paid to an attorney not in the employ of the lender, its parent, or affiliate, and such charges shall not exceed those which are customary and reasonable;~~

~~3.3.10 recording/satisfaction fees -- recording/satisfaction fees shall be limited to those actually expended by the lender to any governmental authority for protection of interest in collateral tendered. The State Bank Commissioner may approve the payment of alternative fees for this purpose provided the amount of said fee (payable by the borrower) shall not exceed the amount which would be payable to any governmental authority for protection of interest in collateral tendered;~~

~~3.3.11 property survey fees -- property survey fees to obtain a drawing that delineates the exact boundaries of a property, including lot lines and placement of improvements on the property, shall be limited to those amounts actually expended for such purposes. Such amounts shall be customary and reasonable;~~

~~3.3.12 pest inspection fees -- pest inspection fees to cover inspections for termites or other pest infestation on the property shall be limited to those amounts actually expended for such purposes. Such amounts shall be customary and reasonable;~~

~~3.3.13 fees incidental to loan closing -- other fees and charges including but not limited to: odd days interest, hazard and mortgage insurance premiums, escrow reserves, lender's inspection fees, mortgage insurance application fees, assumption fees, underwriting fees, document preparation fees, settlement or closing fees, notary fees, funding fees, fees for lead based paint or other inspections and overnight mail fees may be charged and such amounts shall be customary and reasonable;~~

~~3.3.14 prepayment penalties -- a charge in such amount or amounts as the agreement so provides imposed in connection with the payoff and termination of a revolving credit plan or closed end loan secured by real estate;~~

~~3.3.15 notwithstanding the provisions of item 3.3 of this regulation, Licensed Lenders who are making mortgage loans pursuant to the rules, regulations, guidelines and/or loan forms established by the State of Delaware or federal governmental or quasi-governmental entity (including, without limitation: the Federal Housing Administration, the Department of Veterans Affairs, the Farmers Home Administration, the Government National Mortgage Association, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation) shall be permitted to charge and collect any fees, charges or sums prescribed to be charged and collected in connection with a mortgage loan originated pursuant to a lending program conducted or supervised by any such entity.~~

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

~~**2204 Required Amount of Licensed Lender's Surety Bond or Irrevocable Letter of Credit**~~

~~Formerly Regulation No.: 5.2208.0004~~
~~Effective Date: January 1, 1997~~

~~**1.0** A licensee shall file with the State Bank Commissioner (the "Commissioner") an original corporate surety bond or an irrevocable letter of credit, in a form satisfactory to the Commissioner, in accordance with Section 2208 of Title 5 of the **Delaware Code** ("Section 2208"). The minimum amount of the surety bond or irrevocable letter of credit is based on the factors identified in Section 2208.~~

~~**2.0** A licensee shall obtain a surety bond or irrevocable letter of credit in an amount that correlates with the licensee's volume of Delaware lending for the year ending December 31 that precedes the effective year of the license under Chapter 22 of Title 5 of the **Delaware Code**. A licensee who obtains a surety bond that is effective for more than one year or an irrevocable letter of credit shall annually review the amount of the surety bond or irrevocable letter of credit, as of December 31 of each year, to ensure that the minimum required amount is maintained. The minimum required amount of the surety bond or irrevocable letter of credit is according to the following table:~~

Annual Volume of Delaware Loans	Minimum Required Amount of Surety Bond or Irrevocable Letter of Credit
not more than $23,000,000	$50,000
$23,000,001 - $35,000,000	$75,000
$35,000,001 - $47,000,000	$100,000
$47,000,001 - $59,000,000	$125,000
$59,000,001 - $71,000,000	$150,000
$71,000,001 - $83,000,000	$175,000
$83,000,001 and over	$200,000

~~**2205 Report of Delaware Loan Volume**~~
~~5 **Del.C**. Ch. 22~~

~~Formerly Regulation No.: 5.2210(e).0005~~
~~Effective Date: November 12, 1999~~

~~This report shall be completed by all institutions licensed under Chapter 22, Title 5 of the **Delaware Code** and submitted to the Office of the State Bank Commissioner twice each year. The first report is due on or before July 31 and must contain figures from January 1 through June 30 of the current year. The second report is due on or before January 31~~

~~and must contain figures from January 1 through December 31 of the previous year. I~~**~~n the event that you fail to provide this information in the period requested, you will be in violation of this regulation. Additionally, an examination will be scheduled, and staff allocated, without respect to the volume of your Delaware business. This may result in additional examination costs to you.~~**

~~Licensees with multiple licensed locations, whose loan files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed location.~~

~~Name of Licensee:~~ _____

~~Is this a consolidated report?Yes~~ _____ ~~No~~ _____

~~License No.:~~_____ ~~(If consolidated, list all license numbers):~~_____

_____

~~List the address where the loan files are maintained:~~ _____

_____
_____
_____

_____

_____

~~Examination contact person's name, title, phone number and fax number:~~

_____
_____

~~Please report the Delaware business conducted (number of loans) in each of the following categories:~~

~~Loans Executed:~~_____
~~Total Dollar Value:~~_____
~~Loans Paid Off at Maturity:~~_____
~~Loans Paid Off Prior to Maturity:~~_____
~~Applications Denied:~~_____
~~Loans in Litigation:~~_____
~~Credit Life Insurance Claims:~~_____
~~Credit A & H Insurance Claims:~~_____

~~The period for which you are currently reporting is from~~ _____ ~~to~~

_____.

~~I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.~~

_____ _____
~~Date~~ ~~Signature~~ ~~Title~~

_____
~~Printed Name~~ ~~Phone Number~~

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

~~2206 Report of Delaware Assets~~

~~Formerly Regulation No.: 5.2111/2210/2906.0006~~
~~Effective Date: March 12, 1998~~

~~This report shall be completed annually by all institutions licensed under Chapters 21, 22, and 29, Title 5 of the **Delaware Code**. This report must be received by the Office of the State Bank Commissioner no later than April 1st of each year. The figure reported should reflect D**ELAWARE** assets only (including the value of any Delaware loans or contracts in your portfolio, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).~~

~~1. Name of Licensee: _____~~

~~2. Address of Principal License: _____~~
~~_____~~
~~_____~~
~~_____~~

~~3. To whom should we mail the supervisory assessment invoice? Please provide name, title, complete mailing address, telephone number (include area code and extension numbers, if applicable) and fax numbers:~~
~~_____~~
~~_____~~
~~_____~~

~~4. Total **DELAWARE** assets as of December 31st of the immediately previous year:~~

~~$_____~~

~~I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.~~

~~_____ _____~~
~~Date Signature Title~~

~~_____ _____~~
~~Printed Name Phone Number~~

~~**1 DE Reg. 1414 (3/1/98)**~~

~~**2901 Motor Vehicle Sales Finance Companies Minimum Requirements for Content of Books and Records**~~
~~5 **Del.C.** §122(b), §2906(e)~~

~~Formerly Regulation No.: 5.2906(e)/122(b).0001~~
~~Effective Date: November 12, 1999~~

~~**1.0** Each licensed office shall establish and maintain the following books and records, on a current basis, either at the office of the licensed broker, or, at a suitable location available within a reasonable time period, upon request. Written approval may be granted for variations which accommodate individual accounting systems, including automated and electronic record processing systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system as to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested.~~

~~1.1 Retail Installment Contract Applicant Register - This shall be a record showing the name of the applicant, identifying file number, date application was filed, name of lender, date of commitment, amount of lender's fee, and date fee was paid. In the case of an applicant denied credit, the register shall contain the name of the applicant, identification number, date application was filed, date application was denied and reason for denial.~~

~~1.2 Individual Accounts with Borrowers - A record shall be kept for each borrower and shall include the following:~~

~~1.2.1 Name and address of the borrower;~~

~~1.2.2 Loan number;~~

~~1.2.3 Date of loan;~~

~~1.2.4 Total amount of loan;~~

~~1.2.5 Total sale price;~~

~~1.2.6 Rate of interest charges and the amounts of all charges;~~

~~1.2.7 Terms of repayment;~~

~~1.2.8 Description of motor vehicle;~~

~~1.2.9 Where and to whom hypothecated;~~

~~1.2.10 Names of endorsers, comakers, guarantors, or sureties;~~

~~1.2.11 The actual date of receipt of payment of principal and charges; and,~~

~~1.2.12 Name of assignee or purchaser of retail installment contract.~~

~~1.3 File of All Original Paper - (or copies thereof). All obligations and disclosure forms signed by the borrower and taken in connection with loans made shall bear the loan number, shall be maintained in one file, and shall be made available to the examiners when requested. Such file, if applicable, shall include evidence that a retained title or lien was released within the time period prescribed in Regulation 2902 (formerly Regulation No. 5.2906(e).0002, Item (4)).~~

~~1.4 Daily Transaction Record - - All transactions involving either the receipt or disbursement of any amount whatsoever shall be entered in this record. Details of disbursements to, or for, the account of borrowers shall be itemized.~~

~~1.5 Record of Loans in Litigation and Repossessions - - A record of all loans in litigation, repossessions, or voluntary surrenders shall be maintained either on the borrower's account record or a litigation record. If a composite record of such loans is not kept, the loans shall be maintained in a separate litigation and repossession file. The litigation and repossession record shall disclose the following information:~~

~~1.5.1 Loan number, original amount of loan and unpaid balance;~~

~~1.5.2 Description of motor vehicle, attached, replevined, repossessed, or surrendered;~~

~~1.5.3 Date and terms of settlement of account or, if after judgement, the date and amount of judgement, prejudgement balance, current balance, unearned charges credited to borrower's account, and legal costs;~~

~~1.5.4 Evidence of the terms of sale if the security was sold after repossession, such evidence including copies of all bids or other offers received together with the purchaser's name and address, price, date of sale and cash or financing terms.~~

~~1.5.5 Evidence that notification of the time and place of sale was sent to the borrower;~~

~~1.5.6 Evidence of amount paid, if any, to third party repossessors; and,~~

~~1.5.7 Records of litigation accounts handled by attorneys or corporate collection centers shall be maintained in the existing (principal or branch) office and should reflect a correct current balance.~~

~~1.6 Credit Insurance Claims Register - - A credit insurance claims register or file which is a record of all claims submitted by borrowers to the insurer shall disclose the following:~~

~~1.6.1 Date of claim;~~

~~1.6.2 Amount of claim;~~

~~1.6.3 Date and amount of payment by insurer or the date of rejection and the reason therefor;~~

~~1.6.4 Borrower's name;~~

~~1.6.5 Loan number;~~

~~1.6.6 Reason for claim (i.e. death, illness, etc.);~~

~~1.6.7 Proof of death;~~

~~1.6.8 A copy of the check(s) issued by the insurance company in payment of life, accident, health, or accident and health benefits; and,~~

~~1.6.9 A copy of the check(s) issued by the insurance company, or other evidence of credit, which result from pre-payment of the loan or cancellation of the insurance.~~

~~1.7 In the event a loan is sold and no servicing performed, only those items listed in item 6 available prior to such sale shall be required.~~

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

~~**2902 Motor Vehicle Sales Finance Companies Operating Regulations**~~

~~5 **Del.C**. §2906(e)~~

~~Formerly Regulation No.: 5.2906(e).0002~~
~~Effective Date: November 12, 1999~~

~~**1.0 Application of Chapter**~~

~~1.1 Lease Contracts~~

~~1.1.1 A lease contract is governed by Chapter 29 of Title 5 of the **Delaware Code**, when all of the following exist:~~

~~1.1.1.1 The lessee contracts to pay a sum substantially equivalent or in excess of the value of the motor vehicle for the use of the motor vehicle over the lease term.~~

~~1.1.1.2 The lessee is bound to become, or has the option of becoming, the owner of the motor vehicle at some time during, or at the expiration of, the lease contract.~~

~~1.1.1.3 The value for which the motor vehicle is to be sold at the end of the lease term is not payable in a single installment (Cash Sale).~~

~~1.1.2 A lease contract is not governed by Chapter 29 of Title 5 of the **Delaware Code**, when any one of the contract provisions described in 1.1.1, 1.1.1.1, 1.1.1.2, and 1.1.1.3 is absent.~~

~~1.2 For the purposes of Chapter 29 of Title 5 of the **Delaware Code**, all 'motor vehicles' which meet the definition contained in 5 **Del.C.** §2901(1), regardless of whether the intended use is commercial or personal, fall under the auspices of this chapter.~~

~~1.3 If a trade-in is involved in a credit sale transaction and the amount of the existing lien exceeds the value of the trade-in, inclusion of the negative equity financing is permissible under Chapter 29, Title 5 of the **Delaware Code**. In a negative equity trade-in transaction where no cash payment is involved licensees must disclose a zero down payment and under no circumstances should the negative equity be disclosed as a negative number as the consumer's down payment. Any negative equity to be financed under the retail installment sale contract should be disclosed under the provisions of §2907(e)(4) and not §2907(e)(2) of Title 5 of the **Delaware Code**.~~

~~2.0 Maintenance of Operating Regulations for Motor Vehicle Sales Finance Companies~~

~~2.1 All licensees shall conduct business in compliance with Chapter 29 of Title 5 of the **Delaware Code**, and any regulations issued thereunder. Each office licensed under Chapter 29 of Title 5 of the **Delaware Code** shall possess copies of all applicable regulations. These regulations include:~~

~~2.1.1 Regulation 2901 (formerly 5.2906(e)/122(b).0001) - Motor Vehicle Sales Finance Companies Minimum Requirements for Content of Books and Records;~~

~~2.1.2 Regulation 2902 (formerly 5.2906(e).0002) - Motor Vehicle Sales Finance Companies Operating Regulations;~~

~~2.1.3 Regulation 2903 (formerly 5.2906(e).0003) - Report of Delaware Loan Volume Motor Vehicle Installment Contracts;~~

~~2.1.4 Regulation 2904 (formerly 5.2111/2210/2906.0006) - Report of Delaware Assets; and~~

~~2.1.5 Regulation 101 (formerly 5.141.0001.NC) - Retention of Financial Institution Records.~~

~~2.2 The manager and staff of each office shall familiarize themselves with said regulations. Loss or misplacement of regulations shall be made known to the Office of the State Bank Commissioner and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both 5 **Del.C.** §2906(e) and this regulation.~~

~~3.0 Examination and Supervisory Assessment Fees~~

~~3.1 Motor Vehicle Sales Finance Companies licensees shall be subject to examination pursuant to §122 of Title 5 of the **Delaware Code**. The cost of such examinations shall be assessed to the licensee in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for the examination. In addition, the Commissioner shall assess annually each licensee a supervisory assessment fee, due and payable on August 1 of each year, as provided in 5 **Del.C.** §127(b). Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the **Delaware Code**.~~

~~4.0 Security Interest~~

~~4.1 A licensee shall take the necessary action(s), to release or satisfy a retained title or a lien created by a retail installment contract, within thirty days of the date the debt secured by the motor vehicle is satisfied or performed.~~

~~5.0 Credit Life, Health, and Accident Insurance~~

~~5.1 A licensee may request, but not require, an individual borrower to be insured under a life, health, accident, health and accident, or other credit or other permissible insurance policy, whether group or individual.~~

~~5.2 Any lender may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to all statutes of the Insurance Code of the State of Delaware, as well as rules and regulations of the Insurance Commissioner, as may from time to time be prescribed.~~

~~5.3 Every lender offering credit life and health insurance, whose charges do not conform to those authorized in the Insurance Commissioner's Regulation No. 2501 (formerly regulation 5), shall maintain in each office a copy of~~

~~a letter filed with the Insurance Commissioner requesting the deviated rate, as well as approval by the Insurance Commissioner of the rate.~~

~~5.4 Credit life insurance refunds shall be calculated as of the date of death.~~

~~5.5 Credit health insurance payments received by the lender shall be applied to the account for the period the payment actually covers, regardless of the date of receipt. Additional interest charges shall not accrue should payment be received after the payment due date.~~

~~5.6 The Office of the State Bank Commissioner shall provide a copy of the Insurance Commissioner's Regulation No. 2501 (formerly regulation 5), and any subsequent applicable regulations promulgated, to each licensee.~~

~~6.0 Other Insurance~~

~~6.1 Any licensee may require a proof of insurance coverage for any loan secured by a motor vehicle.~~

~~6.2 A licensee may offer, but not require, such other insurance products as the State Bank Commissioner may, upon written approval, permit. No such insurance may be offered, after January 1, 1992, without the State Bank Commissioner's written approval. Those insurances offered prior to January 1, 1992 shall not require written approval, provided such insurances were reported to the State Bank Commissioner before February 10, 1993.~~

~~7.0 Borrower-Signed Authorization for Insurance~~

~~7.1 Any insurance authorized by these Rules and Regulations must be supported by a specific request signed by the borrower. This request shall be attached to, or made a part of, the application documents.~~

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

~~2903 Report of Delaware Loan Volume Motor Vehicle Installment Contracts~~

~~5 **Del.C**. Ch. 29~~

~~Formerly Regulation No.: 5.2906(e).0003~~
~~Effective Date: November 12, 1999~~

~~1.0~~ ~~This report shall be completed by all institutions licensed under Chapter 29, Title 5 of the **Delaware Code** and submitted to the Office of the State Bank Commissioner twice each year. The first report is due on or before July 31 and must contain figures from January 1 through June 30 of the current year. The second report is due on or before January 31 and must contain figures from January 1 through December 31 of the previous year. **In the event that you fail to provide this information in the period requested, you will be in violation of this regulation. Additionally, an examination will be scheduled, and staff allocated, without respect to the volume of your Delaware business. This may result in additional examination costs to you.**~~

~~Licensees with multiple licensed locations, whose retail installment contract files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed location.~~

~~1. Name of Licensee: _____~~

~~2. Is this a consolidated report? Yes _____ No _____~~

~~3. License No.: _____ (If consolidated, list all license numbers): _____~~

~~_____~~

~~4. List the address where the retail installment contract files are maintained:~~

~~_____~~

~~_____~~

~~_____~~

_____

_____

5. Examination contact person's name, title, phone number and fax number:

_____

_____

6. Please report the Delaware business conducted (number of contracts) in each of the following categories:

Contracts Executed: _____
Total Dollar Value: _____
Contracts Paid Off at Maturity: _____
Contracts Paid Off Prior to Maturity: _____
Applications Denied: _____
Contracts in Litigation: _____
Credit Life Insurance Claims: _____
Credit A & H Insurance Claims: _____

7. The period for which you are currently reporting is from _____ to _____.

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____ _____ _____
Date Signature Title

_____ _____
Printed Name Phone Number

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

2904 Report of Delaware Assets

Formerly Regulation No.: 5.2111/2210/2906.0006
Effective Date: March 12, 1998

1.0 This report shall be completed annually by all institutions licensed under Chapters 21, 22, and 29, Title 5 of the **Delaware Code**. This report must be received by the Office of the State Bank Commissioner no later than April 1st of each year. The figure reported should reflect **DELAWARE** assets only (including the value of any Delaware loans or contracts in your portfolio, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).

1. Name of Licensee: _____

2. Address of Principal License: _____

_____

_____

3. To whom should we mail the supervisory assessment invoice? Please provide name, title, complete mailing address, telephone number (include area code and extension numbers, if applicable) and fax numbers:

_____

_____

~~4. Total **DELAWARE** assets as of December 31st of the immediately previous year:~~

~~$_____~~

~~I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.~~

~~_____ _____ _____~~
~~Date Signature Title~~

~~_____ _____~~
~~Printed Name Phone Number~~

~~**1 DE Reg. 1414 (03/01/98)**~~

2101 Operating Regulation

5 **Del.C.** §§2102(b) and 2112
Effective Date: Proposed

1.0 Applicability of Chapter

1.1 5 **Del.C.** Ch. 21 applies only to extensions of credit secured by one to four family residential owner-occupied property located in this State intended for personal, family, or household purposes.

1.2 5 **Del.C.** Ch. 21 does not apply to:

1.2.1 mortgage loans secured by any property of 25 acres or more; and

1.2.2 mortgage loans intended for commercial purposes.

2.0 Compliance with Applicable Laws

2.1 All licensees shall comply with 5 **Del.C.** Ch. 21, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

2.2 The manager and appropriate staff of each licensed office shall familiarize themselves with all such statutes and regulations.

2.3 Each licensed office shall maintain, either by paper copy or through electronic access, 5 **Del.C.** Ch. 21 and the following regulations:

2.3.1 Regulation 101, Retention of Financial Institution Records;

2.3.2 Regulation 2101, Operating Regulation;

2.3.3 Regulation 2102, Minimum Records;

2.3.4 Regulation 2103, Schedule of Charges;

2.3.5 Regulation 2104, Minimum Disclosure and Agreement Requirements;

2.3.6 Regulation 2105, Report of Delaware Loan Volume;

2.3.7 Regulation 2106, Report of Delaware Assets;

2.3.8 Regulation 2107/2208, Guidance on Nontraditional Mortgage Product Risks;

2.3.9 Regulation 2108/2209, Statement on Subprime Mortgage Lending; and

2.3.10 Regulation 2401, Mortgage Loan Originator Licensing.

3.0 Display of License

3.1 Each licensed office open to the public shall prominently display its license issued under 5 **Del.C.** Ch. 21 in clear view of all customers.

3.2 Each licensee that operates an internet website shall comply with the requirements of §7.0 of this regulation.

4.0 Loan Closings in the Name of a Licensee

A mortgage loan shall not close in the name of a licensee unless such a closing is required by either a government agency or a government sponsored entity.

5.0 Mortgage Loan Originators

5.1 Each licensee shall insure that every person who it employs, or is affiliated with it, as a mortgage loan originator, as defined by 5 **Del.C.** Ch. 24, to provide mortgage loan originator services has complied with all the requirements of that chapter and the regulations issued thereunder.

5.2 Each licensee shall promptly notify the Commissioner of the cessation of employment or termination of affiliation of any mortgage loan originator who had been providing residential mortgage loan origination services for the licensee.

5.3 The unique identifier, issued by the Nationwide Mortgage Licensing System and Registry, of the applicable mortgage loan originator shall be clearly shown on all residential mortgage loan application forms for all such loans originated by that individual.

5.4 The licensee's solicitations, advertisements, business cards, and websites that list the name of any mortgage loan originator who provides residential mortgage loan origination services for the licensee shall also contain that originator's unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

5.5 A licensee may use its surety bond under 5 **Del.C.** Ch. 21 to cover mortgage loan originators who are its employees or exclusive agents if the bond conforms to all requirements of 5 **Del.C.** §2415 and §12.0 of Regulation 2401.

5.5.1 A licensee's irrevocable letter of credit may not be used to cover mortgage loan originators.

5.5.2 A licensee shall notify the Commissioner in writing of the names of the mortgage loan originators who are covered by its surety bond and of any change in such coverage for those originators.

6.0 Advertising

6.1 A licensee shall not advertise in any way that is false, misleading or deceptive.

6.2 Any advertising that in any way falsely indicates that its source or origin is a government agency or the recipient's existing lender is prohibited.

6.3 A licensee shall not advertise any credit terms that are not actually available.

6.4 When a licensee advertises with respect to its services under 5 **Del.C.** Ch. 21, the advertisement shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State and specify the license number and expiration date of the license.

7.0 Internet Websites

7.1 Every internet website that a licensee maintains shall meet the following requirements:

7.1.1 The home page for the website shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State and specify the license number and expiration date of the license; and

7.1.2 The website shall specify the name and identification number of all mortgage loan originators whom the licensee employs or who are affiliated with it.

7.2 If the website allows the licensee to conduct any business governed by its license, the website shall properly secure the transmission of all confidential information entered on the website or otherwise exchanged between the licensee and any consumer or borrower.

8.0 Reports

Each licensee shall submit to the Nationwide Mortgage Licensing System and Registry such reports of condition at such times, in such form and containing such information as that System shall require.

9.0 Information Security

Each licensee shall implement and maintain a written comprehensive security program that contains appropriate administrative, technical and physical measures to safeguard the confidentiality of all information concerning applicants and borrowers related to the business governed by this regulation, including, but not limited to, all application information, account information, and information from any consumer report.

10.0 License Applications

10.1 The Nationwide Mortgage Licensing System and Registry, as the multi-state automated licensing system in which the Commissioner is participating pursuant to 5 **Del.C.** §2117, is authorized to act on behalf of the Commissioner to facilitate the application and licensing processes of 5 **Del.C.** Ch. 21, and in that capacity, the System may, with respect to that chapter:

10.1.1 process licensing applications;

10.1.2 collect licensing payments;

10.1.3 submit fingerprints and any other information required for a criminal history background check to the Federal Bureau of Investigation or other law-enforcement agency;

10.1.4 receive information and maintain records regarding applicants and licensees; and

10.1.5 share information it maintains regarding applicants and licensees subject to the System with any other state participating in the System, if that state could have obtained that same information directly from the applicant or licensee under its own law for the purpose of licensing, regulating, or supervising that same applicant or licensee under a statute similar to 5 **Del.C.** Ch. 21.

10.2 Any person seeking an initial or renewal license to engage in a business that requires a license under 5 **Del.C.** Ch. 21 shall submit the appropriate application and fees to the Commissioner through the Nationwide Mortgage Licensing System and Registry.

10.3 All applications shall contain such information, and be submitted on such forms and in such manner as the Commissioner may designate. The Commissioner may change and update application forms as the Commissioner deems appropriate. The Commissioner may also require additional information in connection with any particular application.

10.4 All applications, whether for a main company location or a branch location, must be submitted with the investigation fee of $250, the annual licensing fee of $500.00, and the Nationwide Mortgage Licensing System processing fee of $100 (main company location) or $20 (branch location) (or such other amount as the System may charge). The Nationwide Mortgage Licensing System processing fee and the investigation fee are non-refundable.

10.5 No application shall be deemed complete until the Commissioner has received all required information, documents and fees.

10.6 If the Commissioner determines that an application is incomplete, the Commissioner shall send written notification to the applicant indicating the items that must be addressed to continue the application review process. If the Commissioner does not receive a complete response fully addressing all such items within 30 days after sending that notice, the Commissioner may consider the application withdrawn.

10.7 Any person seeking an initial license following withdrawal of an application shall submit a new application that includes all information, documents and fees required for an initial license.

11.0 Examination Fees and Supervisory Assessments

11.1 The Commissioner may examine licensees pursuant to 5 **Del.C.** §§122 and 2110. The costs of such examinations are assessed in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the examination invoice.

11.2 The Commissioner shall assess each licensee a supervisory assessment that is due and payable on August 1 each year, in accordance with 5 **Del.C.** §127(b).

11.3 Failure to remit timely payment of any examination fee or supervisory assessment will result in a penalty of 0.05 percent of the amount unpaid for each day that such fee or assessment remains unpaid after the due date, in accordance with 5 **Del.C.** §§127(a) and 127(b).

12.0 Examination Responses

A licensee shall send the Commissioner a written response to every violation specified in a report of examination no later than 30 days after the date of the report.

2102 Minimum Records

5 **Del.C.** §§2111(a) and 2112
Effective Date: Proposed

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 name of the mortgage loan originator for the application together with the unique identifier assigned to the originator by the Nationwide Mortgage Licensing 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 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 of this regulation;

1.1.2.2 the date of the loan closing;

1.1.2.3 an identification of the security for the loan;

1.1.2.4 the amount of the loan;

1.1.2.5 the lender's name and address;

1.1.2.6 the amount of the broker's fee; and

1.1.2.7 the date that fee was paid.

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

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

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

1.2.7 the broker agreement with signature(s) of each applicant;

1.2.8 all invoices or other evidence of expenses incurred in connection with the application, including any property appraisal, title certificate, and credit report;

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

1.2.10 a record of all fees collected by the licensee;

1.2.11 a record of all refunds with an explanation of them;

1.2.12 the name and address of every lender the licensee contacted concerning the application;

1.2.13 any written counteroffer for credit provided to the applicant;

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

1.2.15 all other written communications between the licensee and 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 1.2.13 of this regulation;

1.3.2 the lender's name and address;

1.3.3 the loan commitment;

1.3.4 the Uniform Settlement Statement required by the Federal Real Estate Settlement Procedures Act, as amended, and the regulations thereunder;

1.3.5 for reverse mortgage loans, the certification from an independent housing counselor that is required by 5 **Del.C.** §2118; and

1.3.6 all other written communications between the licensee and 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 whatsoever. Details of disbursements to or for the account of applicants and borrowers shall be itemized.

1.5 Litigation Record. The office shall maintain in 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. In addition to all other information required by this regulation, these records shall include:

1.5.1 all documents filed with, or issued by, the court or arbitrator; and

1.5.2 the date and terms of any judgment, arbitration decision, dismissal or settlement.

1.6 Advertising Record. The office shall maintain a record containing all advertising materials used by the licensee:

1.6.1 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;

1.6.2 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;

1.6.3 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;

1.6.4 for internet advertising, this record shall contain a copy of each screen on which the advertising appeared, an identification of the website and web address of each screen, and the dates on which the screen appeared at that web location; and

1.6.5 for the licensee's own website, this record shall contain a complete copy of the website indicating the dates on which the licensee maintained that site. Whenever any screen on the site is changed, the record shall contain a new copy of the complete site and identify each screen that has been changed.

1.7 Mortgage Loan Originator Register. The office shall maintain a register of all mortgage loan originators that it has employed, or have been affiliated with it, to provide residential mortgage loan origination services. The register shall contain:

1.7.1 the name of the originator;

1.7.2 the originator's unique identifier issued the Nationwide Mortgage Licensing System and Registry;

1.7.3 the date that the licensee first retained the originator in that capacity; and

1.7.4 the date that the originator's employment or affiliation with the licensee in that capacity ended.

1.8 Additional Records. The office shall maintain any other records necessary to verify the licensee's compliance with **5 Del.C.** Ch. 21, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

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.

2103 Schedule of Charges

5 **Del.C.** §2115
Effective Date: Proposed

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.

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.

2104 Minimum Disclosure and Agreement Requirements

5 **Del.C.** §2113
Effective Date: Proposed

1.0 Written Agreement

The licensee shall enter into a separate, signed, written agreement with the applicant, independent of the loan agreement. The licensee shall provide a copy of this agreement to the lender, and the lender shall disburse licensee compensation only in accordance with that agreement. The terms of the agreement shall be disclosed to the applicant before the payment of any nonrefundable fees other than any credit report fee. A copy of the agreement shall be provided to the applicant at the time the agreement is signed.

2.0 Contents of Agreement

The agreement shall contain, at minimum:

2.1 the licensee's name, address, and telephone number;

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

2.3 the applicant's name, address, and telephone number;

2.4 the date of the agreement and the period for which it shall remain in effect;

2.5 a statement that the licensee is not the lender;

2.6 a complete description of the services the licensee will perform for the applicant. This description must be sufficient to determine whether the services the licensee will provide are commensurate with the compensation the licensee will receive;

2.7 a statement of the circumstances under which the licensee will be entitled to obtain or retain compensation from the applicant;

2.8 the total amount of the mortgage loan broker's compensation expressed as a dollar amount;

2.9 a specific statement that "In no event shall the cost of these services exceed the amount disclosed in this agreement";

2.10 a statement as to which fees are refundable and nonrefundable and under what circumstances; and

2.11 a statement that the applicant may be entitled to the refund of certain funds paid to the licensee upon exercise of the right to rescind the transaction under the Federal Truth-In-Lending Act, as amended, and the regulations thereunder.

2105 Report of Delaware Loan Volume

5 **Del.C.** §§2111 and 2112
Effective Date: Proposed

Each licensee shall submit this report to the Office of the State Bank Commissioner twice each year. The first report must be received no later than July 31 and must contain information from January 1 through June 30 of the current year. The second report must be received no later than January 31 and must contain information from January 1 through December 31 of the previous year.

Licensees with more than one licensed office, whose files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed office.

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us not later than July 31 and January 31.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's volume of Delaware loans. This may result in additional examination costs.

1. Name of Licensee: _____

2. Is this a consolidated report? Yes _____ No _____

3. License No.:_____ (If consolidated, list all license numbers): _____

_____

4. List the address where the loan files are maintained:

_____

_____

_____

_____

5. Examination contact person's name, title, phone number, fax number and e-mail address:

_____

_____

6. List the **Delaware** business conducted (number of loans) in each of the following categories:

A. Loans Placed, per agreement:_____

Total Dollar Value: $_____

B. Loans Rescinded:_____

C. Applications Denied:_____

7. Reporting Period:_____ to_____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____	_____	_____
Date	Signature	Title
	_____	_____
	Printed Name	Phone Number

2106 Report of Delaware Assets

5 **Del.C.** §§2111 and 2112
Effective Date: Proposed

Each licensee shall submit this report annually to the Office of the State Bank Commissioner. This report must be received no later than April 1 of each year and must contain information for the previous calendar year. The information reported should reflect DELAWARE assets only (including the value of any Delaware loans or contracts, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us no later than April 1.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's amount of Delaware assets. This may result in additional examination costs.

1. Name of Licensee: _____

2. Address of Principal License: _____

_____

_____

3. To whom should we mail the supervisory assessment invoice? Please provide name, title, complete mailing address, telephone number (include area code and extension numbers, if applicable) fax number and e-mail address:

_____

_____

_____

_____

4. **DELAWARE** assets as of December 31st of the immediately previous year:

A. Delaware Loans and Contracts $ _____

B. Funds Deposited in Delaware $ _____

C. Fixed Assets in Delaware $ _____

D. Other Delaware Assets $ _____

(Describe: _____)

E. TOTAL $ _____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____	_____	_____
Date	Signature	Title
	_____	_____
	Printed Name	Phone Number

2201 Operating Regulation

5 Del.C. §2210(e)
Effective Date: Proposed

1.0 Applicability of Chapter

1.1 5 **Del.C.** Ch. 22 applies only to consumer credit transactions, including but not limited to, extensions of credit secured by one to four family residential, owner-occupied property located in this State intended for personal, family, or household purposes.

1.2 5 **Del.C.** Ch. 22 does not apply to:

1.2.1 mortgage loans secured by any property of 25 acres or more;

1.2.2 mortgage loans intended for commercial purposes; and

1.2.3 lending that requires a license under 5 **Del.C.** Ch. 29, Financing the Sale of a Motor Vehicle.

2.0 Compliance with Applicable Laws

2.1 All licensees shall comply with 5 **Del.C.** Ch. 22, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

2.2 The manager and appropriate staff of each licensed office shall familiarize themselves with all such statutes and regulations, as applicable.

2.3 Each licensed office shall maintain, either by paper copy or through electronic access, 5 **Del.C.** Ch. 22 and the following regulations, if applicable:

2.3.1 Regulation 101, Retention of Financial Institution Records;

2.3.2 Regulation 2201, Operating Regulation;

2.3.3 Regulation 2202, Minimum Records;

2.3.4 Regulation 2203, Schedule of Charges;

2.3.5 Regulation 2204, Surety Bond or Irrevocable Letter of Credit;

2.3.6 Regulation 2205, Report of Delaware Loan Volume;

2.3.7 Regulation 2206, Report of Delaware Assets;

2.3.8 Regulation 2207, Exemption of Licensed Lenders;

2.3.9 Regulations 2107/2208, Guidance on Non-traditional Mortgage Products;

2.3.10 Regulation 2108/2209, Statement on Subprime Mortgage Lending;

2.3.11 Regulation 2210, Short-Term Consumer Loans; and

2.3.12 Regulation 2401, Mortgage Loan Originator Licensing.

3.0 Display of License and Payday Loan Notice

3.1 Each licensed office open to the public shall prominently display its license issued under 5 **Del.C.** Ch. 22 in clear view of all customers.

3.2 Each licensed office open to the public that provides short-term consumer loans as defined in 5 **Del.C.** §2227 shall also prominently post the following statement in plain view in an area easily accessible to its customers at the entrance to the office: "A payday loan is not intended to meet long-term financial needs."

3.3 Each licensee that operates an internet website shall comply with the requirements of §10.0 of this regulation.

4.0 Satisfaction of Mortgages and Other Security Interests

4.1 Upon full performance of a debt obligation or duty secured by a mortgage or a conveyance in the nature of a mortgage on real estate, a licensee holding such a mortgage or conveyance shall cause a proper record of its satisfaction or performance to be made within 60 days as required by 25 **Del.C.** Ch. 21.

4.2 A licensee shall take all necessary action to discharge, satisfy or release any other security interest for a loan under 5 **Del.C.** Ch. 22 within 30 days from the date that the loan is satisfied or fully performed.

5.0 Insurance

5.1 Commissions or incentives of any kind for the placement of any type of insurance may not be paid to any licensee, any employee of a licensee, or any office of a licensee. Contracts prepared in advance of a borrower's signature shall not automatically include credit life, health, disability or other insurance.

5.2 Credit Life and Health Insurance

5.2.1 A licensee may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to Title 18 of the Delaware Code and all applicable Insurance Commissioner Regulations.

5.2.2 Every licensee offering credit life and health insurance whose charges do not conform to those authorized by Title 18 of the Delaware Code shall maintain in each office a copy of a submission to the Insurance Commissioner requesting the non-conforming charges and the Insurance Commissioner's approval of those charges.

5.2.3 Credit life insurance refunds shall be calculated as of the date of death except as permitted by 18 **Del.C.** §3705(b)(4).

5.2.4 Credit health insurance payments received by a licensee shall be applied to the account for the period the payment actually covers regardless of the date of receipt. Additional interest charges shall not accrue if payment is received after the payment due date.

5.2.5 A licensee may offer, but not require, only such other insurance products as the Commissioner may, upon written approval, permit.

5.3 Other Insurance

5.3.1 Any licensee may require proof of insurance coverage for any loan secured by a motor vehicle, real estate, or other collateral. The borrower has the right to submit any existing policy(s) naming the licensee as beneficiary, provided such policy is acceptable to the licensee as to coverage, term and carrier. Upon notification to the licensee of cancellation of any policy, the licensee may place coverage to protect the licensee's interest. The borrower shall be informed of such placement and any amount expended shall be

due and payable by the borrower before a loan may be satisfied. A licensee may, if requested by the borrower, place such insurance coverage as is necessary to protect the licensee's interest at the inception of the loan.

5.4 Any insurance authorized by this regulation, other than the insurance coverage authorized by §5.3 of this regulation, must be specifically requested by the borrower in writing. This request must be attached to, or part of, the loan application.

6.0 Purchase or Sale of Loan Contracts

6.1 A licensee shall not sell, assign, or in any way transfer loan contracts to any person who is not licensed under 5 **Del.C.** Ch. 22 or licensed under a similar statute of another state, without the express written permission of the Commissioner.

6.2 Purchasers, assignees, and transferees shall be limited to collecting balances due under the existing contract terms and shall be bound by applicable Delaware laws regarding legal fees and usury statutes if a loan is subsequently refinanced.

6.3 This section shall not apply to:

6.3.1 the sale, assignment or transfer of loan contracts between licensees under the same management or control;

6.3.2 the sale, assignment or transfer of a loan contract to an out-of-state affiliate of a licensee for collection or for the convenience of a borrower provided however that the out-of-state affiliate must be domiciled in the United States;

6.3.3 the sale, assignment or transfer of a loan contract to any person secondarily liable on the contract; and

6.3.4 the sale, assignment or transfer of a participation interest or an entire loan to a federal, state, or local government agency, or to a federal or state regulated bank, savings bank, mortgage banking company, insurance company or investment banking firm or their subsidiaries.

7.0 Origination of Mortgage Loans for Resale

Solely for the purposes of the loan limitation provisions contained in the last sentence of 5 **Del.C.** §2228(a), the term “loans” shall not be deemed to include loans secured by mortgages on real property located in this State (or secured by certificates of stock or other evidence of ownership interest in, or proprietary leases from corporations or partnerships formed for the purpose of cooperative ownership of real estate in this State) if such loans are originated by a licensee for resale and the licensee in fact sells, assigns or otherwise transfers the entire interest in the loan (except servicing, if servicing is retained) within 120 days following the date the loan is made. Upon written request, additional time may be granted at the discretion of the Commissioner.

8.0 Mortgage Loan Originators

8.1 Each licensee shall insure that every person who it employs, or is affiliated with it, as a mortgage loan originator, as defined by 5 **Del.C.** Ch. 24, to provide mortgage loan origination services has complied with all requirements of that Chapter and the regulations issued thereunder.

8.2 Each licensee shall promptly notify the Commissioner of the cessation of employment or termination of affiliation of any mortgage loan originator who had been providing residential mortgage loan origination services for the licensee.

8.3 The unique identifier issued by the Nationwide Mortgage Licensing System and Registry of the applicable mortgage loan originator shall be clearly shown on all residential mortgage loan application forms for all such loans originated by that individual.

8.4 The licensee’s solicitations, advertisements, business cards, and websites that list the name of any mortgage loan originator who provides residential mortgage loan origination services for the licensee shall also contain that originator’s unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

9.0 Advertising

9.1 A licensee shall not advertise in any way that is false, misleading or deceptive.

9.2 Any advertising that in any way falsely indicates that its source or origin is a government agency or the recipient’s existing lender is prohibited.

9.3 A licensee shall not advertise any credit terms that are not actually available.

9.4 When a licensee advertises with respect to its services under 5 **Del.C.** Ch. 22, the advertisement shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State under and specify the license number and expiration date of the license.

10.0 Internet Websites

10.1 Every internet website that a licensee maintains shall meet the following requirements:

10.1.1 The home page for the website shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State and specify the license number and expiration date of the license.

10.1.2 The website shall specify the name and identification number of all mortgage loan originators whom the licensee employs or who are affiliated with it; and

10.1.3 If the licensee provides short-term consumer loans as defined in 5 **Del.C.** §2227, the home page shall prominently display the following statement: "A payday loan is not intended to meet long-term financial needs."

10.2 If the website allows the licensee to conduct any business governed by its license, the website shall properly secure the transmission of all confidential information entered on the website or otherwise exchanged between the licensee and any consumer or borrower.

11.0 Reports

Each licensee who employs mortgage loan originators shall submit to the Nationwide Mortgage Licensing System and Registry such reports of condition at such time, in such form and containing such information as that System shall require.

12.0 Information Security

Each licensee shall implement and maintain a written comprehensive security program that contains appropriate administrative, technical and physical measures to safeguard the confidentiality of all information concerning applicants and borrowers related to the business governed by this regulation including, but not limited to, all application information, account information, and information from any consumer report.

13.0 Repossession Policy

Each licensee shall maintain and follow a written comprehensive policy that describes the manner and timing of repossessing collateral after default. The licensee shall review and update the policy as needed to insure it is consistent with current law and that it reflects the licensee's current practices. Such Repossession Policy shall comply in all respects with 6 **Del.C.** Article 9, Secured Transactions, Part 6, Default.

14.0 License Applications

14.1 The Nationwide Mortgage Licensing System and Registry, as the multistate automated licensing system in which the Commissioner is participating pursuant to 5 **Del.C.** §2213A, is authorized to act on behalf of the Commissioner to facilitate the application and licensing processes of 5 **Del.C.** Ch. 22 as to persons that employ, or have affiliated, a mortgage loan originator as defined by 5 **Del.C.** Ch. 24, and in that capacity, the System may, with respect to those persons:

14.1.1 process licensing applications;

14.1.2 collect licensing payments;

14.1.3 submit fingerprints and any other information required for a criminal history background check to the Federal Bureau of Investigation or other law-enforcement agency;

14.1.4 receive information and maintain records related to applicants and licensees; and

14.1.5 share information it maintains regarding applicants and licensees subject to the System with any other state participating in the System, if that state could have obtained that same information directly from the applicant or licensee under its own law for the purpose of licensing, regulating, or supervising that same applicant or licensee under a statute similar to 5 **Del.C.** Ch 22.

14.2 Any person seeking an initial or renewal license to engage in a business that requires a license under 5 **Del.C.** Ch 22 shall submit the appropriate application and fees to the Commissioner through the Nationwide Mortgage Licensing System and Registry when that person employs, or has affiliated, a mortgage loan originator as defined by 5 **Del.C.** Ch 24. All other persons shall submit applications for licenses under 5 **Del.C.** Ch 22 directly to the Commissioner.

14.3 All applications shall contain such information, and be submitted on such forms and in such manner as the Commissioner may designate. The Commissioner may change and update application forms as the Commissioner deems appropriate. The Commissioner may also require additional information in connection with any particular application.

14.4 All applications, whether for a main company location or a branch location, must be submitted with the investigation fee of $250, the annual license fee of $250, and, if applicable, the Nationwide Mortgage Licensing System and Registry processing fee of $100 (main company location) or $20 (branch location) (or such other amount as the System may charge). The Nationwide Mortgage Licensing System and Registry processing fee and the investigation fee are non-refundable.

14.5 No application shall be deemed complete until the Commissioner has received all required information, documents and fees.

14.6 If the Commissioner determines that an application is incomplete, the Commissioner shall send written notification to the applicant indicating the items that must be addressed to continue the application review process. If the Commissioner does not receive a complete response fully addressing all such items within 30 days after sending that notice, the Commissioner may consider the application withdrawn.

14.7 Any person seeking an initial license following withdrawal of an application shall submit a new application that includes all information, documents and fees required for an initial license.

15.0 Examination Fees and Supervisory Assessments

15.1 The Commissioner may examine licensees pursuant to 5 **Del.C.** §§122 and 2210. The cost of such examinations are assessed in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the examination invoice.

15.2 The Commissioner shall assess each licensee a supervisory assessment fee which is due and payable on August 1 each year, in accordance with 5 **Del.C.** §127(b).

15.3 Failure to remit timely payment of any examination fee or supervisory assessment will result in a penalty of 0.05 percent of the amount unpaid for each day that such fee or assessment remains unpaid after the due date, in accordance with 5 **Del.C.** §§127(a) and 127(b).

16.0 Examination Responses

A licensee shall send the Commissioner a written response to every violation specified in a report of examination no later than 30 days after the date of the report.

2202 Minimum Records

5 **Del.C.** §§2210(e) and 2211(a)
Effective Date: Proposed

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:

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.

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

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 each screen on which the advertising appeared, an identification of the website and web address of each screen, and the dates on which the screen appeared at that web location; and

1.7.5 for the licensee's own website, this record shall contain a complete copy of the website indicating the dates on which the licensee maintained that site. Whenever any screen on the site is changed, the record shall contain a new copy of the complete site and identify each screen that has been changed.

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.

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.

2203 Schedule of Charges

5 **Del.C.** §§2218(a) and 2231
Effective Date: Proposed

1.0 Itemization of Charges

1.1 Each licensee shall maintain itemizations of the current charges that the licensee uses in consumer transactions. The itemization shall identify all charges that the licensee may collect from its customers for a particular type of transaction. Separate itemizations must be prepared for revolving transactions, closed-end transactions, short term consumer loans as defined in 5 **Del.C.** §2227, title loans as defined in 5 **Del.C.** §2250, and real estate secured transactions. Each 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. Each itemization shall clearly identify the specific type of loan to which it applies.

1.1.1 For closed end transactions, separate itemizations must be prepared for short-term consumer loans as defined in 5 **Del.C.** §2227 and title loans as defined in 5 **Del.C.** §2250.

1.1.2 For real estate secured transactions, separate itemizations must be prepared for revolving loans and closed-end loans.

1.2 Each licensee shall furnish every applicant with a copy of the appropriate itemization of charges when the application is made.

1.2.1 An explanation of the contents of the appropriate itemization satisfies this requirement for telephone applications.

1.2.2 Website screens containing the appropriate itemizations satisfy this requirement for electronic applications. The applicant must affirmatively acknowledge receipt of the appropriate 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.

1.3 Each licensee that provides short term consumer loans as defined in 5 **Del.C.** §2227 or title loans as defined in 5 **Del.C.** §2250 shall prominently post its itemization of charges for those loans:

1.3.1 in plain view in an area easily accessible to its customers at the entrance to every office open to the public; and

1.3.2 on any internet website it maintains related to those loans.

2.0 Licensee Compensation

2.1 A licensee may receive any form of compensation that is allowed under 5 **Del.C.** Ch. 22 and not prohibited by any applicable federal statute or regulation.

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.

2.4 All forms of compensation that a licensee receives from a customer must be specified in the licensee's agreement with that customer for a licensee to receive payment.

2.5 A licensee may not receive any compensation for mortgage loan modification services as defined in 5 **Del.C.** §2245 prior to the execution of a written contract that describes in detail all such services that the licensee will perform and all compensation that the licensee will receive for those services. Any compensation that a licensee receives in advance of the completion of all such services may not exceed $250, and a licensee's total compensation for such services must be limited to an amount that is customary and reasonable for those services in this State.

3.0 Charges for Revolving Credit

A licensee may collect the following charges for revolving credit as allowed by of 5 **Del.C.** Ch. 22, Subch. II:

3.1 interest, including interest at variable rates;

3.2 a periodic charge for privileges made available to the borrower;

3.3 transaction charges;

3.4 a minimum charge for each scheduled billing period during which there was an outstanding unpaid balance;

3.5 fees for services rendered in good faith by the licensee or its agents in connection with the loan;

3.6 reimbursement for expenses incurred in good faith by the licensee or its agents in connection with the loan;

3.7 late or delinquency charges;

3.8 attorney fees incurred by the licensee as a result of a default by the borrower;

3.9 court, alternative dispute resolution, or other collection costs (including collection agency fees) incurred by the licensee as a result of a default by the borrower; and

3.10 returned check charges and charges for the denial of electronic account debits limited to the amount specified in the licensee's agreement with its customers. A customer may be assessed only one such charge per item.

4.0 Charges for Closed End Credit

A licensee may collect the following charges for closed end credit as allowed by 5 **Del.C.** Ch. 22, Subch. III:

4.1 interest, including interest at variable rates;

4.2 fees for services rendered in good faith by the licensee or its agents in connection with the loan;

4.3 reimbursement for expenses incurred in good faith by the licensee or its agents in connection with the loan;

4.4 late or delinquency charges;

4.5 charges for deferred installment payments;

4.6 attorney fees incurred by the licensee as a result of a default by the borrower;

4.7 court, alternative dispute resolution, or other collection costs (including collection agency fees) incurred by the licensee as a result of a default by the borrower;

4.8 deferral charges; and

4.9 returned check charges and charges for the denial of electronic account debits limited to the amount specified in the licensee's agreement with its customers. A customer may be assessed only one such charge per item.

5.0 Charges for Real Estate Secured Credit

In addition to the charges allowed under §§3.0 and 4.0 of this regulation, a licensee may collect the following charges for credit secured by residential real estate. For each separately identified charge paid to a third party, the name of the party ultimately receiving the payment must be disclosed together with the total amount paid to that party. 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.

5.1 Rate Lock Fee: The fee for the commitment of a specific interest rate to be held for a specified period of time.

5.2 Origination Charge: All fees, other than points, received as compensation for loan origination services. All loan origination charges, including but not limited to, processing, application, administration, underwriting, document preparation, wire, lender inspection, mortgage broker fees, and fees for loan handling, shall be included in the origination charge.

5.3 Points: The fee charged or credit received for the specific interest rate chosen.

5.4 Appraisal Fee: The fee charged for a written report as to the value of the security tendered.

5.5 Credit Report Fee: The fee charged for all credit reports obtained from credit reporting agencies.

5.6 Tax Service Fee: The fee charged for certification of the current tax status of the security tendered, and for life-of-loan monitoring of tax and improvement lien payments as they become due.

5.7 Flood Certification Fee: The fee paid for determining whether the security tendered is or will be located in a special flood hazard area. The fee may also include the cost of life-of-loan monitoring.

5.8 Funding Fee: The fee charged by a governmental agency to originate and guarantee a mortgage loan.

5.9 Odd Days Interest: The interest that accrues on the principal balance of the loan between the date of settlement or disbursement and the date of the first loan payment.

5.10 Mortgage Insurance Premium: The premium due at settlement for mortgage insurance to protect the lender or investor from losses due to future default of the mortgage loan.

5.11 Homeowner's Insurance Premium: The premium due at settlement for homeowner's hazard insurance, exclusive of amounts collected in escrow reserves.

5.12 Credit Related Insurance Premium: The premium due at settlement for credit life, health or disability insurance. All such insurance must be elective, and all such premiums are subject to the limitations contained in Title 18 of the Delaware Code and applicable Insurance Commissioner Regulations.

5.13 Escrow Reserves: The amounts collected for reserves, including but not limited to, homeowner's insurance, mortgage insurance and property taxes. Escrow item calculations and cushions shall be subject to the

limitations specified in the United States Real Estate Settlement Procedures Act, as amended, and the regulations thereunder.

5.14 Title Insurance Premium 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.

5.15 Attorneys Fee: The legal fees paid to an attorney who is not an employee of the licensee, its parent entity, or other affiliate, for services to secure or close the loan. The services may include the preparation of deeds, mortgages, notes and other services rendered to the borrower as part of the transaction.

5.16 Government Transfer Taxes and Recording Fees: The taxes and fees paid to local and state governments for the transfer of real estate and for the recording of documents associated with the transaction.

5.17 Property Survey Fee: The fee to obtain a drawing that delineates the exact boundaries of the security tendered, including lot lines and placement of improvements on the property.

5.18 Inspection Fees: The fee for a written report as to the physical condition of the security tendered, including but not limited to, pest inspections, lead-based paint inspections, radon inspections, structural inspections and inspections of heating, plumbing or electrical equipment. Inspection fees may include fees for insurance or warranty coverage, provided such insurance or coverage is itemized separately.

5.19 Prepayment Charges: The fee imposed in connection with the payoff and termination of a revolving credit plan or closed end loan.

5.20 Incidental Closing Fees: The fee for any other necessary and appropriate settlement service such as an assumption fee. Such fee must be actually incurred and specifically identified and itemized.

6.0 Disbursements to Mortgage Loan Brokers

A licensee shall disburse funds to a mortgage loan broker only in accordance with the broker's agreement with its customer.

7.0 Miscellaneous

Notwithstanding the provisions of this regulation, licensees who make mortgage loans pursuant to the rules, regulations, guidelines and/or loan requirements established by State of Delaware or federal governmental or quasi-governmental entities (including, without limitation the Federal Housing Administration, the Department of Veterans Affairs, the Farmers Home Administration, the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation or their successors) may charge any fees permitted under a lending program conducted or supervised by any such entity.

2204 Surety Bond or Irrevocable Letter of Credit

5 **Del.C.** §2208
Effective Date: Proposed

1.0 Bond or Irrevocable Letter of Credit Required

Each licensee shall file with the State Bank Commissioner (the "Commissioner") an original corporate surety bond or an irrevocable letter of credit, in a form satisfactory to the Commissioner, in accordance with 5 **Del.C.** §2208. The minimum amount of the surety bond or irrevocable letter of credit is based on the factors identified in that section.

2.0 Amount of Bond or Irrevocable Letter of Credit

2.1 Each licensee shall obtain a surety bond or irrevocable letter of credit in an amount that correlates with the licensee's volume of Delaware lending for the year ending December 31 that precedes the effective year of the license under 5 **Del.C.** Ch. 22. A licensee who obtains a surety bond that is effective for more than one year or an irrevocable letter of credit shall annually review the amount of the surety bond or irrevocable letter of credit as of December 31 of each year to ensure that the minimum required amount is maintained. The minimum required amount of the surety bond or irrevocable letter of credit shall be maintained according to the following table:

Annual Volume of Delaware Loans	Minimum Required Amount of Surety Bond or Irrevocable Letter of Credit
not more than $23,000,000	$50,000
$23,000,001 - $35,000,000	$75,000
$35,000,001 - $47,000,000	$100,000
$47,000,001 - $59,000,000	$125,000
$59,000,001 - $71,000,000	$150,000
$71,000,001 - $83,000,000	$175,000
$83,000,001 and over	$200,000

2.2 The Commissioner may require a licensee to obtain a larger surety bond or irrevocable letter of credit based upon the licensee's individual circumstances.

3.0 Bond for Mortgage Loan Originators

3.1 A licensee may use its surety bond under 5 **Del.C.** Ch. 22 to cover mortgage loan originators licensed under 5 5 **Del.C.** Ch. 22 and who are its employees or exclusive agents if the bond conforms to all requirements of 5 **Del.C.** §2415 and §12.0 of Regulation 2401.

3.2 A licensee's irrevocable letter of credit may not be used to cover mortgage loan originators.

3.3 A licensee shall notify the Commissioner in writing of the names of the mortgage loan originators who are covered by its surety bond and of any change in such coverage for those originators.

2205 Report of Delaware Loan Volume

5 **Del.C.** §2210(e)
Effective Date: Proposed

Each licensee shall submit this report to the Office of the State Bank Commissioner twice each year. The first report must be received no later than July 31 and must contain information from January 1 through June 30 of the current year. The second report must be received no later than January 31 and must contain information from January 1 through December 31 of the previous year.

Licensees with more than one licensed office, whose files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed office.

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us no later than July 31 and January 31.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's volume of Delaware loans. This may result in additional examination costs.

1. Name of Licensee: _____

2. Is this a consolidated report? Yes _____ No _____

3. License No.:_____ (If consolidated, list all license numbers):_____

_____

4. List the address where the loan files are maintained:

_____

_____

_____

_____

5. Examination contact person's name, title, phone number, fax number and e-mail address:

_____

_____

6. List the **Delaware** business conducted (number of loans) in each of the following categories:

   A. Loans Executed:_____

      Total Dollar Value:$_____

   B. Loans Brokered_____

      Total Dollar Value$_____

   C. Loans Paid Off at Maturity:_____

   D. Loans Paid Off Prior to Maturity:_____

   E. Applications Denied:_____

   F. Loans in Litigation:_____

   G. Credit Life Insurance Claims:_____

   H. Credit A & H Insurance Claims:_____

7. Reporting Period: _____ to_____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____	_____	_____
Date	Signature	Title
	_____	_____
	Printed Name	Phone Number

2206 Report of Delaware Assets

5 **Del.C.** §2210(e)
Effective Date: Proposed

Each licensee shall submit this report annually to the Office of the State Bank Commissioner. This report must be received no later than April 1 of each year and must contain information for the previous calendar year. The information reported should reflect DELAWARE assets only (including the value of any Delaware loans or contracts, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us no later than April 1.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's amount of Delaware assets. This may result in additional examination costs.

1. Name of Licensee: _____

2. Address of Principal License: _____

_____

_____

3. To whom should we mail the supervisory assessment invoice? Please provide name, title, complete mailing address, telephone number (include area code and extension numbers, if applicable) fax number and e-mail address:

_____

_____

_____

_____

4. **DELAWARE** assets as of December 31st of the immediately previous year:

A.	Delaware Loans and Contracts	$ _____
B.	Funds Deposited in Delaware	$ _____
C.	Fixed Assets in Delaware	$ _____
D.	Other Delaware Assets	$ _____
	(Describe:)	
E.	TOTAL	$ _____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____	_____	_____
Date	Signature	Title
	_____	_____
	Printed Name	Phone Number

2901 Operating Regulation

5 **Del.C.** §2906(e)
Effective Date: Proposed

1.0 Applicability of Chapter

1.1 Lease Contracts. 5 **Del.C.** Ch. 29 applies to a lease contract only when:

1.1.1 The lessee contracts to pay a sum substantially equivalent to, or in excess of, the value of the motor vehicle for the use of the motor vehicle over the lease term;

1.1.2 The lessee is obligated to become, or has the option of becoming, the owner of the motor vehicle at some time during, or at the expiration of, the lease contract; and

1.1.3 The value for which the motor vehicle is to be sold at the end of the lease term is not paid in a single installment.

1.2 5 **Del.C.** Ch. 29 applies to all motor vehicles meeting the definition of that term in 5 **Del.C.** §2901(1) regardless of whether the intended use is personal or commercial.

2.0 Compliance with Applicable Laws

2.1 All licensees shall comply with 5 **Del.C.** Ch. 29, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

2.2 The manager and appropriate staff of each licensed office shall familiarize themselves with all such statutes and regulations.

2.3 Each licensed office shall maintain, either by paper copy or through electronic access, 5 **Del.C.** Ch. 29 and the following regulations:

2.3.1 Regulation 101, Retention of Financial Institution Records.

2.3.2 Regulation 2901, Operating Regulation;

2.3.3 Regulation 2902, Minimum Records;

2.3.4 Regulation 2903, Report of Delaware Loan Volume; and

2.3.5 Regulation 2904, Report of Delaware Assets.

3.0 Display of License

3.1 Each licensed office open to the public shall prominently display its license issued under 5 **Del.C.** Ch. 29 in clear view of all customers.

3.2 Each licensee that operates an internet website shall comply with the requirements of §8.0 of this regulation.

4.0 Security Interest Satisfaction

A licensee shall take all necessary action to discharge, satisfy or release a retained title, lien, or other security interest for a retail installment contract within 30 days of the date that the debt is satisfied or fully performed.

5.0 Insurance

5.1 Commissions or incentives of any kind for the placement of any type of insurance may not be paid to any licensee, any employee of a licensee, or any office of a licensee. Contracts prepared in advance of a borrower's signature shall not automatically include credit life, health, disability or other insurance.

5.2 Credit Life and Health Insurance

5.2.1 A licensee may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to Title 18 of the Delaware Code and all applicable Insurance Commissioner Regulations.

5.2.2 Every licensee offering credit life and health insurance whose charges do not conform to those authorized by Title 18 of the Delaware Code shall maintain in each office a copy of a submission to the Insurance Commissioner requesting the non-conforming charge and the Insurance Commissioner's approval of those charges.

5.2.3 Credit life insurance refunds shall be calculated as of the date of death except as permitted by 18 **Del.C.** §3705(b)(4).

5.2.4 Credit health insurance payments received by a licensee shall be applied to the account for the period the payment actually covers regardless of the date of receipt. Additional interest charges shall not accrue if payment is received after the payment due date.

5.2.5 A licensee may offer, but not require, only such other insurance products as the State Bank Commissioner may, upon written approval, permit.

5.3 Other Insurance.

5.3.1 Any licensee may require proof of insurance coverage for any loan secured by a motor vehicle or other collateral. The borrower has the right to submit any existing policy(s) naming the licensee as beneficiary, provided such policy is acceptable to the licensee as to coverage, term and carrier. Upon notification to the licensee of cancellation of any policy, the licensee may place coverage to protect the licensee's interest. The borrower shall be informed of such placement and any amount expended shall be due and payable by the borrower before a loan may be satisfied. A licensee may, if requested by the borrower, place such insurance coverage as is necessary to protect the licensee's interest at the inception of the loan.

5.4 Any insurance authorized by this regulation, other than the insurance coverage authorized by §5.3 of this regulation, must be specifically requested by the borrower in writing. This request must be attached to, or part of, the loan application.

6.0 Negative Equity Financing

Inclusion of negative equity financing is permissible only if the amount of an existing lien in a credit sales transaction exceeds the value of a trade-in. In a negative equity trade-in transaction where no cash payment is involved, licensees must disclose a zero down-payment. The negative equity must not be disclosed as a negative number for the consumer's down-payment. Any negative equity to be financed under the retail installment sales contract must be disclosed under 5 **Del.C.** §2907(e)(4), and not 5 **Del.C.** §2907(e)(2).

7.0 Advertising

7.1 A licensee shall not advertise in any way that is false, misleading or deceptive.

7.2 Any advertising that in any way falsely indicates that its source or origin is a government agency or the recipient's existing lender is prohibited.

7.3 A licensee shall not advertise any credit terms that are not available.

7.4 When a licensee advertises with respect to its services under 5 **Del.C.** Ch. 29, the advertisement shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State and specify the license number and expiration date of the license.

8.0 Internet Websites

8.1 Every website that a licensee maintains shall meet the following requirements:

8.1.1 The home page for every internet website that a licensee maintains shall clearly and conspicuously state that the licensee is licensed by the Delaware State Bank Commissioner to engage in business in this State under and specify the license number and expiration date of the license.

8.1.2 If the website allows the licensee to conduct any business governed by its license, the website shall properly secure the transmission of all confidential information entered on the website or otherwise exchanged between the licensee and any consumer or borrower.

9.0 Information Security

Each licensee shall implement and maintain a written comprehensive security program that contains appropriate administrative, technical and physical measures to safeguard the confidentiality of all information concerning applicants and borrowers customer related to the business governed by this regulation, including, but not limited to, all application information, account information, and information from any consumer report.

10.0 Repossession Policy

Each licensee shall maintain and follow a written comprehensive policy that describes the manner and timing of repossessing collateral after default. The licensee shall review and update the policy as needed to insure it is consistent with current law and that it reflects the licensee's current practices. Such Repossession Policy shall comply in all respects with **6 Del.C.** Article 9, Secured Transactions, Part 6, Default.

11.0 Examination Fees and Supervisory Assessments

11.1 The Commissioner may examine licensees pursuant to 5 **Del.C.** §§122 and 2906. The cost of such examinations are assessed in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the examination invoice.

11.2 The Commissioner shall assess each licensee a supervisory assessment fee, which is due and payable on August 1 of each year, in accordance with 5 **Del.C.** §127(b).

11.3 Failure to remit timely payment of any examination fee or supervisory assessment will result in a penalty of 0.05 percent of the amount unpaid for each day that such fee or assessment remains unpaid after the due date, in accordance with 5 **Del.C.** §127(a) and (b).

12.0 Examination Responses

A licensee shall send the Commissioner a written response to every violation specified in a report of examination no later than 30 days after the date of the report.

2902 Minimum Records

5 **Del.C.** §2906(e)
Effective Date: Proposed

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;

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.

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 each screen on which the advertising appeared, an identification of the website and web address of each screen, and the dates on which the screen appeared at that web location; and

1.7.5 for the licensee's own website, this record shall contain a complete copy of the website indicating the dates on which the licensee maintained that site. Whenever any screen on the site is changed, the record shall contain a new copy of the complete site and identify each screen that has been changed.

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.

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.

2903 Report of Delaware Loan Volume

5 **Del.C.** §2906(e)
Effective Date: Proposed

Each licensee shall submit this report to the Office of the State Bank Commissioner twice each year. The first report must be received no later than July 31 and must contain information from January 1 through June 30 of the current year. The second report must be received no later than January 31 and must contain information from January 1 through December 31 of the previous year.

Licensees with more than one licensed office, whose files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed office.

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us no later than July 31 and January 31.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's volume of Delaware loans. This may result in additional examination costs.

1. Name of Licensee: _____

2. Is this a consolidated report? Yes _____ No _____

3. License No.:_____ (If consolidated, list all license numbers): _____

_____

4. List the address where the retail installment contract files are maintained:

_____

_____

_____

_____

5. Examination contact person's name, title, phone number, fax number and e-mail address:

_____

_____

6. List the **Delaware** business conducted (number of contracts) in each of the following categories:

A. Contracts Executed:_____

Total Dollar Value: $_____

B. Contracts Paid Off at Maturity:_____

C. Contracts Paid Off Prior to Maturity:_____

D. Applications Denied:_____

E. Contracts in Litigation:_____

F. Credit Life Insurance Claims:_____

G. Credit A & H Insurance Claims:_____

7. Reporting Period:_____ to _____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____	_____	_____
Date	Signature	Title
	_____	_____
	Printed Name	Phone Number

2904 Report of Delaware Assets

5 **Del.C.** §2906(e)
Effective Date: Proposed

Each licensee shall submit this report annually to the Office of the State Bank Commissioner. This report must be received no later than April 1 of each year and must contain information for the previous calendar year. The information reported should reflect DELAWARE assets only (including the value of any Delaware loans or contracts, any funds deposited in Delaware, and any fixed assets located in Delaware or any other assets allocated to the Delaware operations).

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us no later than April 1.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's amount of Delaware assets. This may result in additional examination costs.

1. Name of Licensee: _____

2. Address of Principal License: _____

_____

_____

3. To whom should we mail the supervisory assessment invoice? Please provide name, title, complete mailing address, telephone number (include area code and extension numbers, if applicable) fax number and e-mail address:

_____

_____

_____

_____

4. **DELAWARE** assets as of December 31st of the immediately previous year:

A.	Delaware Loans and Contracts	$ _____
B.	Funds Deposited in Delaware	$ _____
C.	Fixed Assets in Delaware	$ _____
D.	Other Delaware Assets	$ _____
	(Describe:)	
E.	TOTAL	$ _____

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

_____

Date Signature Title

_____

Printed Name Phone Number

17 DE Reg. 832 (02/01/14) (Prop.)