

DEPARTMENT OF STATE
OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Section 121(b); 29 Delaware Code, Sections 10003(b), and 10113(b) (5 **Del.C.** §121(b); 29 **Del.C.** §§10003(b), and 10113(b))
5 **DE Admin.Code** §103

FINAL

**Order Adopting Amendments to Regulation 103, Sections 4.2 and 4.3
(Freedom of Information Act Requests)**

IT IS HEREBY ORDERED on this 2nd day of June 2011, that Sections 4.2 and 4.3 of Regulation 103 (Freedom of Information Act Requests) are amended as rules of practice and procedure that will be used by the Office of the State Bank Commissioner. A copy of the amendments to Sections 4.2 and 4.3 of Regulation 103 are attached hereto and incorporated herein by reference, with deleted language struck through and added language underlined. The amendments are being adopted to conform Sections 4.2 and 4.3 to the provisions of 78 **Del. Laws** Ch.10 amending Section 10003 of Title 29 of the **Delaware Code**. The remaining provisions of Regulation 103 are not affected by the amendments.

The effective date of the amendments is July 11, 2011. The amendments are adopted by the State Bank Commissioner in accordance with Title 5 and Section 10003 of Title 29 of the **Delaware Code**, and pursuant to the requirements of Chapter 11 and Section 10113(b) of Title 29 of the Delaware Code. A copy of this order and the amendments to Section 4.2 and 4.3 of Regulation 103 are to be filed with the Registrar of Regulations.

Robert A. Glen, State Bank Commissioner
June 2, 2011

103 Freedom of Information Act Requests

Effective Date: November 12, 2010

1.0 Definitions

The following words and terms when used in this Regulation have the following meaning unless the context clearly indicates otherwise:

“**FOIA**” shall mean the Delaware Freedom of Information Act, 29 **Del.C.** Ch. 100, as amended.

“**Office**” shall mean the Office of the State Bank Commissioner for the State of Delaware.

“**Public record**” shall mean the same as that term is defined in 29 **Del.C.** §10002(g) and shall not include records deemed non-public pursuant to that section or records deemed confidential pursuant to the Delaware Banking Code, Title 5 of the Delaware Code.

“**Standard size**” shall mean 8.5” x 11”; 8.5” x 14”; and 11” x 17”.

2.0 General

- 2.1 This Regulation establishes the policy, procedures, charges and fees for responding to requests seeking to inspect public records of the Office under FOIA.
- 2.2 The Office shall provide reasonable access for reviewing public records during the Office’s regular business hours.
- 2.3 Notwithstanding the scope or nature of the request, only existing public records in the possession of the Office will be provided under FOIA.
- 2.4 The Office has no obligation under FOIA to answer written questions, analyze data, create records not already in its possession or compile information in any way.

3.0 Requests

- 3.1 Persons seeking to inspect public records pursuant to FOIA shall send an original and one copy of a written request addressed to:
Office of the State Bank Commissioner
555 East Loockerman Street
Dover, Delaware 19901
- 3.2 A FOIA request shall:

- 3.2.1 clearly state the name, address and telephone number of the person making the request;
- 3.2.2 indicate that the request is being made pursuant to FOIA; and
- 3.2.3 describe the records sought in sufficient detail to enable the Office to determine their identity and location with reasonable effort.
- 3.3 FOIA requests by electronic mail will not be accepted.
- 3.4 FOIA requests that do not comply with this Regulation may be denied in whole or in part.
- 3.5 Records may not be produced to any person who has an outstanding balance to the Office relating to a pending or prior FOIA request.

4.0 Responses

- 4.1 Upon receipt of a FOIA request, the Office shall review the records in its possession to identify those that are public records.
- 4.2 ~~Within ten (10) working~~ No later than fifteen (15) business days after a FOIA request is received, the Office shall send a written response to the person making the request using the address specified in the request. Additional reasonable time shall be allowed for granting or denying access to the requested records when the request is for voluminous records, requires legal advice or a record is in storage or archived.
- 4.3 The response may require inspection of requested records; may indicate when, where and under what conditions the requested records may be inspected; may include copies of requested records; may deny the request in whole or in part ~~and stating~~ stating the reasons therefor; or may indicate that additional time is required for a further response in accordance with § 4.2 of this Regulation. If the response indicates that additional time is required, an expected date for the further response shall be specified.
- 4.4 Public records may be inspected only during the Office's regular business hours.

5.0 Administrative Fees, Photocopying Charges, and Other Costs.

- 5.1 Administrative Fees. The Office may assess the person making a FOIA request administrative fees incurred pursuant to the request.
 - 5.1.1 Administrative fees include personnel time associated with processing the request, including but not limited to, time spent locating and reviewing records; monitoring record reviews; photocopying paper records; generating paper copies of microfilm, microfiche and electronic records; review by legal counsel; and any other work necessitated by the request.
 - 5.1.2 Administrative fees will be charged per quarter hour at the current, hourly pay rate plus benefits of the personnel performing the work, pro-rated in quarter hour increments.
 - 5.1.3 Administrative fees will be in addition to all photocopy charges and other costs.
- 5.2 Photocopy Charges. The Office may assess the person making a FOIA request the following photocopy charges:
 - 5.2.1 Standard Size or Smaller Paper Records. The charge for copying public records maintained on standard size or smaller paper will be \$0.50 per printed page for black and white copies and \$2.00 per printed page for color copies.
 - 5.2.2 Large Size Paper Records. For black and white copies, the charge for copying public records maintained on paper that is larger than standard size will be \$2.00 per 24" x 26" printed page, \$3.00 per 24" x 36" printed page, \$5.00 per 30" x 42" printed page, and \$1.00 per square foot of printed page for all other oversized records. For color copies, an additional \$1.50 per printed page will be charged.
 - 5.2.3 Microfilm and Microfiche Records. The charge for copying public records maintained on microfilm or microfiche will be \$1.00 per printed page. All such records will be copied to standard size paper in black and white.
 - 5.2.4 Electronic Records. The charge for copying public records maintained electronically will be the same as standard size paper records if the requested records are copied to paper. Standard size paper will be used for all such copies. If the requested records are copied to an electronic storage device or media (such as magnetic tape, diskette, compact disc, thumb drive, etc.), the charge will be the cost of the device or media.
- 5.3 Other Costs. The Office may assess the person making a FOIA request any other costs incurred pursuant to the request, including charges assessed by an outside vendor to copy the requested records.
- 5.4 Payment for all fees, charges and costs is due at the time records are provided. The Office may also require payment prior to sending copies of records.

6.0 Effective Date

These regulations shall become effective 11 days after being published as a final regulation. Any and all FOIA requests currently in process at the time of adoption will be subject to these regulations.

14 DE Reg. 487 (11/01/10)
15 DE Reg. 100 (07/01/11) (Final)