

DEPARTMENT OF STATE

OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Sections 121(b), 2112, 2210(e), 2741, and 2906(e);
(5 Del.C. §§121(b), 2112, 2210(e), 2741, and 2906(e))
5 DE Admin. Code 2101, 2201, 2701 and 2901

FINAL

ORDER

2701 Operating Regulation

IT IS HEREBY ORDERED, this 7th day of September, 2016, that amended Regulations 2101, 2201, 2701 and 2901 are adopted as Regulations of the State Bank Commissioner. The effective date of each of these Regulations is October 13, 2016. These Regulations are adopted by the State Bank Commissioner in accordance with Title 5 of the Delaware Code and pursuant to the requirements of Chapters 11 and 101 of Title 29 of the Delaware Code, as follows:

1. The 148th General Assembly passed House Bill 286 with House Amendment No. 1, which was signed by the Governor on May 9, 2016, and enacted at 80 Delaware Laws Chapter 225 (hereinafter referred to as "HB 286").

2. HB 286 amends Title 5 of the Delaware Code by, among other things, deleting requirements relating to the display of licenses, as provided: in Section 3 of HB 286, by amending Section 2106 of Title 5; in Section 4 of HB 286, by amending Section 2206(a) of Title 5; in Section 10 of HB 286, by amending Section 2719 of Title 5; and in Section 12 of HB 286, by amending Section 2902 of Title 5.

3. The State Bank Commissioner is authorized to adopt regulations in accordance with Chapters 21, 22, 27 and 29 of Title 5 of the Delaware Code, as provided in Sections 121(b), 2112, 2210(e), 2741 and 2906(e) of Title 5.

4. The Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code, provides at Section 10113, in pertinent part:

"(b) Regulations of the following types are exempted from the procedural requirements of this chapter and may be adopted informally: ...

"(5) Amendments to existing regulations to make them consistent with changes in basic law but which do not otherwise alter the substance of the regulations; ...

"Any regulation adopted pursuant to this subsection, along with a copy of the order adopting said regulation, shall be filed with the Registrar of Regulations, and the regulation so filed shall become the official regulation as defined in § 1132 of this title."

5. Regulation 2101 (Mortgage Loan Brokers Operating Regulation) is amended by deleting Section 3.0 Display of License, to conform to the amendment in Section 3 of HB 286 to Section 2106 of Title 5 of the Delaware Code.

6. Regulation 2201 (Licensed Lenders Operating Regulation) is amended by deleting the words "License and" in Section 3.0 and by deleting Section 3.1 about displaying the license, to conform to the amendment in Section 4 of HB 286 to Section 2206(a) of Title 5 of the Delaware Code.

7. Regulation 2701 (Cashing of Checks, Drafts or Money Orders Operating Regulation) is amended by deleting the words "License and" in Section 2.0 and by deleting Section 2.1 about displaying the license, to conform to the amendment in Section 10 of HB 286 to Section 2719 of Title 5 of the Delaware Code.

8. Regulation 2901 (Financing the Sale of Motor Vehicles Operating Regulation) is amended by deleting Section 3.0 Display of License, to conform to the amendment in Section 12 of HB 286 to Section 2902(d) of Title 5 of the Delaware Code.

Robert A. Glen, State Bank Commissioner

2701 Operating Regulation

5 Del.C. §2741

5 Del.C. §2741

Effective Date: December 11, 2014

1.0 Compliance with Applicable Laws

1.1 All licensees shall comply with 5 Del.C. Ch. 27, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

- 1.2 The manager and appropriate staff of each licensed office, including all mobile units, shall familiarize themselves with all such statutes and regulations.
- 1.3 Each licensed office, including all mobile units, shall maintain, either by paper copy or through electronic access, 5 **Del.C.** Ch. 27 and the following regulations:
 - 1.3.1 Regulation 101, Retention of Financial Institution Records;
 - 1.3.2 Regulation 2701, Operating Regulation; and
 - 1.3.3 Regulation 2702, Minimum Records.

2.0 Display of License and Fee Schedule

Each licensed office, including all mobile units, shall prominently display in clear view of all customers:

- ~~2.1 its license issued under 5 **Del.C.** Ch. 27, and~~
- 2.2 the fee schedule set forth in 5 **Del.C.** §2742.

3.0 Expired Identification

Licensees shall not accept from a customer any form of identification that has expired.

4.0 Advertising

- 4.1 A licensee shall not advertise in any way that is false, misleading or deceptive.
- 4.2 When a licensee advertises with respect to its services under 5 **Del.C.** Ch. 27, the advertisement may state that the licensee is licensed to engage in business in this State under that chapter and may specify the license number and expiration date of its license.

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

5.0 Examination Fees and Supervisory Assessments

- 5.1 The Commissioner may examine licensees pursuant to 5 **Del.C.** §122. 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.
- 5.2 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).
- 5.3 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).

6.0 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.

16 DE Reg. 1286 (06/01/13)

20 DE Reg. 309 (10/01/16) (Final)