

**2100 Mortgage Loan Brokers**

**2102 Minimum Records**

5 Del.C. §§2111(a) and 2112

Effective Date: December 11, 2014

**1.0 Minimum Required Records**

Each licensed office shall maintain the following records on a current basis:

**1.1 Register.**

1.1.1 For applicants not granted credit, the office shall maintain a register containing:

1.1.1.1 the applicant's name and address;

1.1.1.2 a file identification number;

1.1.1.3 the application date;

1.1.1.4 the 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1.1.1.5 the date of the credit decision or the date the application was withdrawn; and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;

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- 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 the advertisement.
- 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.

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

**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.

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

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17 DE Reg. 994 (04/01/14)