

2200 Licensed Lenders

2203 Schedule of Charges

5 **Del.C.** §§2218(a) and 2231
Effective Date: April 11, 2014

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;

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- 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.

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- 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.

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

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