

**DEPARTMENT OF STATE**  
**OFFICE OF THE STATE BANK COMMISSIONER**  
Statutory Authority: 5 Delaware Code, Section 121(b) (5 **Del.C.** §121(b))  
5 **DE Admin. Code** 2301

**PROPOSED**

**PUBLIC NOTICE**

**2301 Operating Regulation**

**Summary**

The State Bank Commissioner proposes to amend Regulation 2301 (Sale of Checks and Transmission of Money – Operating Regulation). The proposed amendments implement the changes to Title 5, Chapter 23 from House Bill 199, signed by the Governor on 6/27/2019, by providing for license applications to be processed through the Nationwide Multistate Licensing System and Registry. The proposed amendments are not substantially likely to impose additional costs or burdens upon individuals and/or small businesses. Other Regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing this proposed amended Regulation in accordance with Title 5 of the Delaware Code. This Notice is issued pursuant to the requirements of Title 29 of the Delaware Code, Chapter 11, Subchapter III, Chapter 101, Subchapter II, and Chapter 104, Sections 10404A(b)(1) and 10404B(b)(1).

**Comments**

Copies of the proposed amended Regulation are being published in the February 1, 2020 edition of the Delaware *Register of Regulations*. Copies are also on file in the Office of the State Bank Commissioner, 1110 Forrest Avenue, Dover, DE 19904 and are available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed amended Regulation or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether the proposed amended Regulation should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before March 3, 2020. Written materials submitted will be available for inspection at the above address.

**Adoption of Proposed Amended Regulations**

On or after March 3, 2020, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulation, or make additional changes because of the public comments received.

**2301 Operating Regulation**  
5 **Del.C.** Ch. 23

5 **Del.C.** §2318

Effective Date: ~~June 11, 2013~~ XX/XX/XXXX

**1.0 Compliance with Applicable Laws**

- 1.1 All licensees shall comply with 5 **Del.C.** Ch. 23, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.
- 1.2 The manager and appropriate staff of each licensee shall familiarize themselves with all such statutes and regulations.
- 1.3 Each licensee shall maintain either by paper copy or through electronic access, 5 **Del.C.** Ch. 23 and the following regulations:
  - 1.3.1 Regulation 101, Retention of Financial Institution Records;
  - 1.3.2 Regulation 2301, Operating Regulation;
  - 1.3.3 Regulation 2302, Exemptions; and
  - 1.3.4 Regulation 2303, Report of Delaware Volume.

**2.0 Minimum Required Records**

- 2.1 Each licensee shall maintain any records necessary to verify the licensee's compliance with 5 **Del.C.** Ch. 23, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.
- 2.2 All such records shall be made available to the Commissioner's staff when requested.

- 2.3 Records may be maintained at any suitable location but must be available within a reasonable period of time upon request.
- 2.4 All such records may be maintained by paper copy or in an electronic format.
- 2.5 All records shall be maintained in accordance with the time periods specified in Regulation 101, Retention of Financial Institution Records.
- 2.6 The Commissioner may grant written approval for variations from this section 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 section are satisfied and that the records will be readily available when requested.

### **3.0 Expired Identification**

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

### **4.0 Advertising**

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

### **5.0 Examination Fees and Supervisory Assessments**

- 5.1 The Commissioner may examine licensees and their agents 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.

### **7.0 License Applications/ Nationwide Multistate Licensing System and Registry**

- 7.1 The Nationwide Multistate Licensing System and Registry, as the multi-state automated licensing system in which the Commissioner is participating pursuant to 5 **Del.C.** §2319, is authorized to act on behalf of the Commissioner to facilitate the application and licensing processes of 5 **Del.C.** Ch. 23, and in that capacity, the System may, with respect to that chapter:
  - 7.1.1 Process licensing applications;
  - 7.1.2 Collect licensing payments;
  - 7.1.3 Submit fingerprints and any other information required for a criminal history background check to the Federal Bureau of Investigation or other law-enforcement agency;
  - 7.1.4 Receive information and maintain records regarding applicants and licensees; and
  - 7.1.5 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. 23.
- 7.2 Any person seeking an initial or renewal license to engage in a business that requires a license under 5 **Del.C.** Ch. 23 shall submit the appropriate application and fees to the Commissioner through the Nationwide Multistate Licensing System and Registry.
- 7.3 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.
- 7.4 All applications, whether for a main company location or a branch location, must be submitted with the investigation fee of \$172.50, the annual licensing fee of \$230.00, plus \$4.60 for each additional location, and the Nationwide Multistate 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 Multistate Licensing System and Registry processing fee and the investigation fee are non-refundable.

- 7.5 No application shall be deemed complete until the Commissioner has received all required information, documents and fees.
- 7.6 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.
- 7.7 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.

## **8.0 Reports**

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

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

**23 DE Reg. 641 (02/01/20) (Prop.)**