

## PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

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### CHAPTER 41. CONSUMER DISCOUNT COMPANIES

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#### Authority

The provisions of this Chapter 41 issued under section 12 of the Consumer Discount Company Act (7 P. S. § 6212), unless otherwise noted.

#### Source

The provisions of this Chapter 41 adopted March 3, 1978, effective March 4, 1978, 8 Pa.B. 483; amended June 20, 1986, effective June 21, 1986, 16 Pa.B. 2211, unless otherwise noted. Immediately preceding text appear at serial pages (37038) to (37042), (33909) to (33910), (37044) to (37045), (47316) to (47318) and (37048) to (37050), unless otherwise noted.

#### § 41.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Consumer Discount Company Act (7 P. S. §§ 6201—6219).

*Administrator*—The Secretary of Banking of the Commonwealth or his appointed representative.

*Affiliate*—A person that directly, or indirectly, controls, is controlled by, or is under common control with a licensee.

*Bureau*—The Bureau of Consumer Credit Agencies of the Department.

*Consumer*—Either the maker on a note, the acceptor of a bill of exchange, the defendant on a judgment, the mortgagor on a mortgage, the lessee on a lease, the bailee on a bailment, the purchaser on a conditional sales contract, or the person obligated to pay any other contract.

*Contract*—Either a promissory or judgment note, bill of exchange, judgment, mortgage, conditional sales contract, lease or bailment by which the lessee or bailee has the option of becoming or is bound to become the owner of real or personal property upon full compliance with the terms of the agreement, or another form of negotiable or nonnegotiable instrument evidencing an agree-

ment to pay a sum certain in money at a fixed or determinable time, either by a single payment or by stated installments.

*Debt instrument*—An evidence of indebtedness issued by a licensee or its affiliates.

*Department*—The Department of Banking of the Commonwealth.

*Home improvement contract*—A contract executed under the Home Improvement Finance Act (73 P. S. §§ 500-101—500-602).

*Installment sale contract*—A contract executed under the Motor Vehicle Sales Finance Act (69 P. S. §§ 601—637) or the Goods and Services Installment Sales Act (69 P. S. §§ 1101—2303).

*Licensed office*—A branch office of a licensee.

*Licensee*—A corporation holding a license issued under the provisions of the act and including a corporation whose license has expired or whose license has been cancelled, surrendered or revoked.

*Maker*—A person who signs his name to a note and directly receives a loan of money; the term may not include a signatory secondarily liable on the note, including but not limited to, an endorser, guarantor or surety.

#### Cross References

This section cited in 10 Pa. Code § 36.2 (relating to tax and loan depositories).

### § 41.2. Advertising.

(a) In a printed or written advertisement, a licensee shall set forth its corporate or fictitious business name, or both, as designated in its license certificate; except that with respect to direct mail solicitation, it is only necessary for a licensee to set forth its corporate or fictitious business name, or both, once on any one of the pieces constituting a mail solicitation. A licensee shall set forth prominently its corporate or fictitious business name, or both, as designated in its license certificate on or at the entrance to its place of business. A licensee shall retain copies of advertising matter for at least 6 months following the final public dissemination of the advertising and shall make the advertising available upon request for inspection by the Administrator.

(b) The Administrator will prohibit the use of advertising matter by a licensee which, in his opinion, is false, misleading or deceptive or encourages the purchase of debt instruments from a licensee or its affiliates when the licensee knows or has reason to know that the debt instrument may not be paid at maturity. A licensee referring to payments on loans in an advertisement shall specify the amounts of the payments and the number of payments or period of time required to discharge the obligation.

(c) A licensee may not use the term “legal rates” in an advertisement, nor may similar phrases be used in an advertisement wherein the use might mislead the public into believing that the rate charged is the legal rate established by section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202). A licensee may not use the phrases “low rates,” “lower rates,” “lowest rate in the city” or other similar phrases unless the licensee is able to substantiate the statements to the satisfaction of the Department, upon request.

(d) Advertisements of a licensee shall be limited to the business contemplated by the act, except that a licensee may combine an advertisement of that business with an advertisement of another leading business if the advertisement clearly distinguishes the amounts of loans or the types of transactions offered by the respective businesses. The charges applicable to each type of loan or transaction shall be shown when reference is made to rates charged in combined advertising.

(e) On direct loans referred to licensees by dealers or merchants in which a part of the loan is paid to dealers or merchants in payment for goods or services, as authorized by a consumer, the Administrator reserves the right to ascertain whether the selling price of the goods or services is reasonable in order to detect the concealment of illegal commissions, fees or other charges to a consumer. A licensee who knowingly participates in the granting or solicitation of loans embodying illegal fees or in the granting or solicitation of loans where consumers are induced by a person to purchase merchandise to obtain a loan shall refund the charges to the consumer and shall be subject to the penal provisions of the act and revocation of license.

**Source**

The provisions of this § 41.2 amended June 12, 1998, effective July 6, 1998, 28 Pa.B. 2687. Immediately preceding text appears at serial pages (237512) to (237513).

**§ 41.3. Contracts with consumers.**

(a) The terms of payment shall be clearly stipulated in loan contracts. It is required that a loan contract provide for payment for a specified duration except as otherwise permitted by the act. Documents pertaining to loan contracts which a consumer may be required to sign shall be completely filled in before execution by the consumer and may not be signed by the consumer at a place of business other than that designated in the license certificate. If special circumstances require, a licensee may, at the request of a consumer, obtain signatures at a place where the consumer may so designate. This subsection does not prohibit a licensee from granting loans by mail.

(b) A licensee may not, either directly or indirectly, require consumers to purchase merchandise, shares of stock, debt instruments or other forms of investment in or for the licensee or an affiliate as a condition for obtaining a loan.

(c) At the request of and for the convenience of a consumer, the first selective payment due date on a loan contract may be agreed upon by the licensee at the inception of the contract; the first selective payment due date may not occur more than 1 month and 15 days from the date of the contract, except when appropriate for the purpose of facilitating payment in accordance with a consumer's intermittent income as provided by section 14F of the act (7 P. S. § 6214F). When a charge is made for an extended first payment due date by the licensee, the charge shall be disclosed on the statement of contract in such a way that the charge is separately identifiable from the other charges in the contract.

(d) The act requires that due notice of a licensee's intention to collect default charges be given to the consumer in the statement of contract. A licensee may,

upon notice, collect a specified default charge on loan contracts at the rate permitted in the act on the amount in default. The minimum charge permitted in the act may be collected for a default of 10 or more days. No charge may be collected for default created by the deduction of default charges from prior installments. After maturity of the loan contract, the entire unpaid balance is the amount in default. No provision has been made permitting the full default charge to be collected for a fraction of a month when the loan contract is less than a month in default; therefore, it is necessary to calculate the default charge on the actual number of days from the due date of the payment in default to the date the payment is collected. Default charges may be accrued and collected at the time of final payment of a loan contract. Default charges accruing prior to periods of claims may be deducted from the proceeds of accident and health insurance claim payments; however, default charges may not accrue during periods of claims. See § 41.3a (relating to calculation of default charges—statement of policy) for a statement of policy on calculation of default charges.

(e) An extension arises from a written agreement, other than the original loan contract, between a consumer and a licensee to alter the payment schedule in the original loan contract or to postpone one or more scheduled payments to the end of the contract. A deferment arises from a written agreement, other than the original loan contract, between a consumer and a licensee to postpone one or more scheduled payments for a specified period of time other than to the end of the contract. Each extension or deferment shall be negotiated separately. The charge for an extension or deferment shall be made only after the date on which the original loan contract was executed. If, during the term of a loan contract, a consumer requests a change of the due date of unpaid installments to a date of the month other than the original due date, a charge of 1.5% per month of the unpaid balance may be collected for the *bona fide* extension proportionate to the number of days extended. If, during the term of a loan contract, a consumer requests an extension of one or more payments to the end of the loan contract and the consumer does not intend to make up the missed payment in the meantime, a charge of 1.5% of the full unpaid balance may be collected for each payment so extended. If, during the term of a loan contract, a consumer requests a deferment of one or more payments, a charge of 1.5% per month of the amount deferred may be collected for the period of deferment. No default charge on the extended or deferred payment may be collected in addition to the extension or deferment fee unless a subsequent delinquency occurs in the payment so extended or deferred. Under no conditions shall extension or deferment fees be added to unpaid principal balances, nor may the fees be deducted from full installment payments, except upon written agreement of the consumer in advance. Extension or deferment fees, or both, may not be deducted from accident and health insurance claim payments. This subsection may not limit the authority of a licensee to collect extension or deferment fees, with or without a consumer's written consent when the loan contract is in default at least 60 days; provided, however, that the number of extensions or deferments collected under these circumstances may not

exceed the number of installments in default; except that, when a consumer remits scheduled installments in default, the licensee may not collect extension or deferment fees without the written consent of the consumer.

(f) On a loan contract which is wholly prepaid prior to maturity, the licensee shall refund to the consumer the unearned portion of the interest or discount. The refund shall be computed in accordance with the formula contained in section 14D of the act (7 P. S. § 6214D), which formula is the sum of the digits method commonly known as the Rule of 78. The original first payment due date on the loan contract shall be used in determining the number of installments being prepaid, except when another due date was agreed upon and an extension charge was collected, in which case the agreed upon due date shall be used. When computing refunds on extended loan contracts, the number of installments extended shall be included in determining the number of installments being prepaid. The net balance due to liquidate a loan contract in full shall be quoted by a licensee when requested by a consumer or anyone authorized in writing by the consumer to obtain the net balance due. When an unpaid balance of an installment sale contract or a home improvement contract held by a licensee or its affiliate is prepaid from the proceeds of a direct loan granted by the licensee, a refund of the unearned interest or finance charge in the installment sale contract or the home improvement contract shall be allowed in accordance with the statutes governing the contracts.

(g) A licensee may not request that a consumer sign more than one note, mortgage, security agreement or other instrument in connection with a loan contract unless the additional instruments are clearly designated as duplicates before the consumer signs. A licensee shall, within 30 days of the final payment of a loan contract, return to the consumer original documents evidencing indebtedness or constituting security. Instruments evidencing the obligation or constituting security which are recorded with a public official and permanently filed with the public official are exempt from the preceding sentence of this subsection. A licensee shall, when notes, mortgages, security agreements or other evidences of indebtedness have been entered of record, satisfy the record when the obligation is paid in full if the consumer is willing to pay the costs of satisfaction. If the consumer is unable or unwilling to pay the costs of satisfaction, the licensee shall furnish to the consumer a satisfactory release which will enable the consumer to satisfy the record whenever he may choose to do so. This subsection may not prohibit a licensee from retaining on record a document used to secure additional loans and advances made within 30 days after a loan contract is paid in full. A licensee shall furnish, upon the request of the consumer, an accurate copy of a note, lease, mortgage, security agreement, bill of sale, assignment or other document evidencing indebtedness or constituting security which the consumer has signed. The first copy of each document shall be furnished free of charge.

(h) A licensee shall pay the proceeds of a loan contract to the consumer unless the licensee has obtained written authority from the consumer to pay a portion or all of the proceeds to a third party. The burden of showing proof of

payment of amounts which have been paid to a third party on behalf of the consumer shall be on the licensee. The Administrator recommends the use of loan vouchers or other evidence of authority signed by the consumer to authorize the distribution of the proceeds to third parties. For the purposes of this subsection, a consumer's endorsement on a check payable to a third party shall constitute written authority from the consumer. In addition to the information required to be shown on the statement of contract which is to be furnished to the consumer under section 15 of the act (7 P. S. § 6215), the statement shall show the interest or discount and service charge separately. Items deducted from the proceeds of a loan shall be shown on the statement of contract unless this information is furnished to the consumer on a loan voucher or other authorization for distribution of the proceeds.

(i) A licensee may not permit a person other than an employe of the licensee to accept payments on loan accounts at a place of business of the licensee other than a licensed office. This subsection does not apply to the collection of a contract in default by an attorney at law, public official or a collection agent authorized by a licensee. This subsection does not apply to a payment system whereby payments are accepted at a bank, a savings and loan association or other depository institution, organized and existing under the statutes of the Commonwealth, or of other states or of Federal law, on behalf of the licensee, in an arrangement commonly known as a lock box arrangement. When a consumer elects to mail payments, a licensee may, except on final payments, require the consumer to furnish self-addressed stamped envelopes for the purpose of forwarding receipts. When the mailing of receipts is conditioned upon the furnishing of self-addressed stamped envelopes by a consumer, a statement to that effect shall be furnished to the consumer.

(j) When a licensee places property or casualty insurance, other than installment floater insurance referred to in subsection (k), on behalf of a consumer, at the expense of the consumer, the licensee assumes the responsibility of furnishing to the consumer a policy or certificate of insurance within 30 days of the date of the contract. Insurance which a licensee obtains, either directly or indirectly, on behalf of a consumer shall be written by a company authorized to conduct business in this Commonwealth and through an agent or broker licensed by the Insurance Department to write insurance in this Commonwealth. The licensee shall retain, in his office, a schedule of rates charged on the insurance. No consumer may be held liable, under a so-called subrogation clause, for losses incurred by an insurance company when the premium was paid by the consumer. When property or casualty insurance has been obtained by a licensee on behalf of a consumer and the contract is liquidated by prepayment, renewal or sale of collateral prior to the expiration date of the contract, the licensee shall inform the consumer of his right to cancel or continue the insurance, and the licensee shall arrange for the refund of a portion of the premium which may be due to the con-

sumer by reason of the cancellation of the insurance by the consumer or by the insurance company. Cancellation or retention of the coverage shall be optional with the consumer.

(k) The writing of installment floater insurance on household goods or other personal property pledged as security on a contract is subject to the provisions of 31 Pa. Code Chapter 112 (relating to policies covering personal property pledged as collateral). The insurance may be sold by a licensee only when similar coverage is not carried by a consumer or when the consumer has similar coverage but is unable or unwilling to offer the insurance to secure a loan transaction.

(l) The sale of accidental death and dismemberment insurance, service club memberships or association-type membership policies by a licensee shall be completely voluntary on the part of a purchaser. When the purchaser is also a borrower, details of the loan transaction, including the disbursement of the loan proceeds to the borrower, shall be concluded before the licensee may initiate an effort to sell the services to the borrower. When a loan contract is renewed prior to the maturity of an insurance policy or a service club membership as referred to in this subsection, a licensee may not cancel the insurance policy or service club membership prior to its maturity. Cancellation of the insurance policy or service club membership shall be optional with the purchaser. A refund of premium resulting from the cancellation shall be paid to the purchaser.

(m) Individual policies or group certificates of credit life insurance and credit accident and health insurance shall be approved by the Insurance Department in accordance with the act of September 2, 1961 (P. L. 1232, No. 540) (40 P. S. §§ 1007.1—1007.15) for the regulation of credit life and credit accident and health insurance companies. Licensees shall comply with 31 Pa. Code Part III (relating to credit insurance) promulgated therefrom.

(n) Licensees shall maintain a separate file of insurance claims in order that complete information may be readily obtained by the Administrator to verify proper settlement of claims. Death claims shall be filed for at least the amount of the insurance in force at the time of the death of the insured. An excess over the net balance due on the contract, in the form of unearned discount rebates, applicable insurance premium rebates or otherwise, shall be remitted to the beneficiary or estate of the deceased consumer.

(o) For the purposes of this subsection, an individual signing the face of a joint note shall, in the absence of specific designation to the contrary, be construed as being liable as maker. When a licensee knows or has reason to know that an individual consumer derives the use, benefit or advantage of an aggregate amount in excess of \$25,000 from the proceeds of one or more separate loan contracts granted by a licensee directly to the consumer or indirectly through other consumers, the loan contracts shall be construed as a single loan contract in excess of \$25,000, and interest on the amount in excess of \$25,000 shall be limited to the legal rate established by section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), which rate is 6.0% per annum simple interest.

This limitation does not apply to the purchase of installment sale contracts or home improvement contracts, or another loan granted under another statute of the Commonwealth.

(p) When a loan in excess of \$25,000 is granted to one consumer or when an aggregate number of loans are granted to one consumer by a licensee under the same management or control the total of which exceeds \$25,000, the interest rate on the amount in excess of \$25,000 shall be limited to the legal rate established by section 202 of the act of January 30, 1974 (P. L. 13, No. 6), which rate is 6.0% *per annum* simple interest. This means that a licensee may grant a single loan in excess of \$25,000 or a series of loans the aggregate of which exceeds \$25,000 and charge interest on the portion thereof not in excess of \$25,000 at the rate provided in the act and on the portion thereof in excess of \$25,000 at 6.0% *per annum* simple interest; except, interest shall be charged so as not to exceed that which could be charged in a manner which would amortize that portion of the loan balance on a single loan, or the aggregate on a series of loans, not in excess of \$25,000 simultaneously with the portion in excess of \$25,000. Licensees shall take reasonable precautions to prevent the granting of loans in violation of this subsection. This subsection does not apply to the purchase of installment sale contracts or home improvement contracts or to revolving loan accounts, or another loan granted under another statute of the Commonwealth.

(q) When an overcharge of any type occurs at the inception of a loan contract and is discovered later, it may be adjusted by crediting the loan contract with the amount of the overcharge plus interest at the contract rate on the basic overcharge from the date of the contract to the date of adjustment. If the adjustment is made by refunding the overcharge to the consumer by cash or check, the refund shall include interest on the basic overcharge at the contract rate from the date of the overcharge to the date of adjustment. Overcharges in extension fees and default charges shall be adjusted by cash refund or by crediting the consumer's contract with the amount of the overcharge plus interest on the basic overcharge at the contract rate from the date of the overcharge to the date of adjustment. When a contract is prepaid and an error is made in calculating refunds of unearned discount or unearned insurance premiums, the error shall be corrected immediately upon discovery, and the adjustment due the consumer shall include interest on the basic overcharge at the contract rate from the date of the error to the date of adjustment.

(r) A licensee granting business loans shall comply with the act and this chapter; except, rates of charge on the loans in excess of \$10,000 shall be governed by the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. §§ 101—605).

#### Source

The provisions of this § 41.3 amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 14; amended June 12, 1998, effective July 6, 1998, 28 Pa.B. 2687. Immediately preceding text appears at serial pages (237513) to (237514), (239251) to (239255) and (237519).

**Notes of Decisions***Interest Rate*

The provisions of 10 Pa. Code § 41.3(p) (relating to contracts with consumers), insofar as it allows for a different interest rate for loans in excess of \$5,000, is consistent with the underlying statute and does not offend the public policy on which the underlying statute was based. *Beneficial Consumer Discount Co. v. Whitesell*, 404 A.2d 794 (Pa. Cmwlth. 1979).

**Cross References**

This section cited in 10 Pa. Code § 41.3a (relating to calculation of default charges—statement of policy).

**§ 41.3a. Calculation of default charges—statement of policy.**

(a) This section applies only to default charges on precomputed loans as authorized in section 13.K of the act (7 P. S. § 6313K.). Refer to § 41.3(d)(relating to contracts with consumers) for information on default. Default charges will be calculated as follows:

- (1) The act provides for the collection of a default charge (sometimes referred to as a “late” charge) for two types of contracts:
  - (i) A loan payable in one payment.
  - (ii) A loan payable in installments.
- (2) The monthly rate is applied to the contract amount in arrears. Assessing the charge on the amount in arrears clearly means assessing the charge on the total amount past due.

*Example A:* A borrower fails to make two installment payments of \$130 per month, one in January and one in February, for a total amount in arrears in March of \$260. The licensee is authorized to charge 1.5% for the arrearage which has accrued for each month. Therefore, in this example, a licensee may collect \$1.95 as a default charge for January ( $\$130 \times 1.5\% = \$1.95$ ) because the total arrearage that month is \$130. For February a default charge of \$3.90 may be collected because the total arrearage in that month, comprised of payments due for January and February, is \$260 ( $\$260 \times 1.5\% = \$3.90$ ). The late charges for each month are cumulative, thus in March the cumulative amount of late charges owed by the borrower is \$5.85.

- (3) If the loan is in default for a period of less than 1 month, the default charge shall be calculated on the actual number of days from the due date of the payment until the date upon which the payment is collected.
- (4) After a loan has matured, a default charge may be imposed on the entire unpaid balance; that is, the total number of missed payments, for each month the balance remains unpaid.
- (5) If no payments are made during the term of the loan, at maturity the unpaid balance is the sum of the entire principal and interest or discount. The default charge is assessed on the unpaid balance.

*Example B:* A borrower has a 36-month loan payable in installments of \$130 per month. The total amount of principal and interest (or discount) due under the terms of the loan is \$4,680 ( $\$130 \times 36 = \$4,680$ ). Assume no installments were made on the loan. Pursuant to the rule that default charges are assessed on the unpaid balance, the default charge for the month following the maturity of the loan is \$70.20 ( $\$4,680 \times 1.5\% = \$70.20$ ). If the default charge were limited to the rate times the amount of each monthly installment, the calculation after the expiration of the term would be anomalous. During the 36-month term of the loan, each month a late charge of \$1.95 would accrue. At the expiration of the term, the monthly late charge would suddenly jump from \$1.95 per month to \$70.20 per month. The interpretation that the default charge is based on the amount in arrears, and is not a one time charge on each installment, produces a progression from the \$1.95 charge after the first month, to the \$70.20 charge after the maturity of the loan. Late charges are cumulative throughout the term of the loan and thereafter until the loan is paid. Late charges assessed against the amount in arrears as of each month and the cumulative total for Example B are computed as follows:

<i>Month</i>	<i>Default Charge</i>	<i>Cumulative Charge</i>
1	\$ 1.95	\$ 1.95
2	\$ 3.90	\$ 5.85
3	\$ 5.85	\$ 11.70
4	\$ 7.80	\$ 19.50
5	\$ 9.75	\$ 29.25
6	\$11.70	\$ 40.95
7	\$13.65	\$ 54.60
8	\$15.60	\$ 70.20
9	\$17.55	\$ 87.25
10	\$19.50	\$107.25
11	\$21.45	\$128.70
12	\$23.40	\$152.10
13	\$25.35	\$177.45
14	\$27.30	\$204.75
15	\$29.25	\$234.00
16	\$31.20	\$265.20
17	\$33.15	\$298.35
18	\$35.10	\$333.45
19	\$37.05	\$370.50
20	\$39.00	\$409.50

<i>Month</i>	<i>Default Charge</i>	<i>Cumulative Charge</i>
21	\$40.95	\$ 450.50
22	\$42.90	\$ 493.35
23	\$44.85	\$ 538.20
24	\$46.80	\$ 585.00
25	\$48.75	\$ 633.75
26	\$50.70	\$ 684.45
27	\$52.65	\$ 787.10
28	\$54.60	\$ 791.20
29	\$56.55	\$ 848.25
30	\$58.50	\$ 906.75
31	\$60.45	\$ 967.20
32	\$62.40	\$1029.60
33	\$64.35	\$1093.95
34	\$66.30	\$1160.25
35	\$68.25	\$1228.50
36	\$70.20	\$1298.70

**SUMMARY**

Principal and Interest Due	\$4680.00
Cumulative Late Charges Due	<u>\$1298.70</u>
Account Balance	\$5978.70

**Source**

The provisions of this § 41.3a adopted August 31, 1990, effective September 1, 1990, 20 Pa.B. 4627; amended April 24, 1998, effective April 25, 1998, 28 Pa.B. 1956. Immediately preceding text appears at serial pages (237519) to (237521).

**Cross References**

This section cited in 10 Pa. Code § 41.3 (relating to contracts with consumers).

**§ 41.4. Accounting records.**

(a) Accounting records shall be maintained in English and shall be retained for a period of 2 years after the date of final payment of or the final entry on a contract. Licensees shall make books and records available to the Administrator for examination, with or without prior notice, on weekdays at some time between 9 a.m. and 5 p.m., except holidays normally observed by local, national or religious custom. The accounting records of a licensee will be considered satisfactory if they are maintained in compliance with generally accepted accounting principles. Licensees purchasing installment sale contracts shall maintain separate

general ledger controls for motor vehicle sales finance contracts and other sales finance and home improvement contracts purchased. At least the following controls shall be maintained:

- (1) Direct loans.
- (2) Motor vehicle sales finance contracts.
- (3) Other sales finance and home improvement contracts.

(b) Licensees operating licensed offices other than their home office are permitted to maintain the general ledger of each licensed office at their home office providing each licensed office is furnished with a statement showing assets, liabilities and the income and expenses of that licensed office. These statements shall be filed in licensed offices within 30 days of the close of each accounting cycle and shall be retained in each licensed office and be available to the Administrator for a period of 2 years immediately preceding the date of each examination. The Administrator, however, reserves the right to demand that the general ledger maintained at the home office under these conditions be made available upon proper notice to the licensee. Except for licensed office general ledgers, other books, records and papers may be maintained in a licensed office of the licensee and shall be made available to the Administrator for examination at any time without prior notice. When notes or other instruments evidencing loan contracts are deposited with a financial institution in connection with a commercial loan or line of credit, access thereto shall be provided for the Administrator when the institution holding these notes or other instruments is situated in close proximity to the office of the licensee. When the institution holding these documents is not so situated, the licensee shall obtain from the institution a certified current list of documents held showing the date of the contract, the original amount of the contract, the name of the consumer and the number of the contract.

(c) Each individual account ledger shall contain a complete and detailed record of all items pertaining to the account. Interest or discount and service charges shall be shown separately. This ledger shall reflect the date of the contract, the date of each payment, the balance remaining due after each payment, the contractual delinquency status, the default charges, the extension charges, and whether the loan was closed by payment in full, by renewal or by sale of collateral or was charged off as a loss. The individual account ledger shall show detailed records of dates and amounts of special items that may have been paid by or charged to the consumer. When collateral is repossessed other than by due process of law, the date of repossession and the name and address of the person making the repossession shall appear on the individual account ledger. The date of the sale of the collateral, the selling price, the name and address of the purchaser and the date and amount of an insurance refund or of a surplus from the sale of the collateral that shall be paid to the consumer shall be set forth on the individual account records. When individual ledger cards are not available, the information required in this subsection shall be included in records produced by a data processing system.

(d) A licensee shall maintain in a separate file or record an accurate chronological account of law suits, foreclosures and sales of real property, personal property or both real and personal property.

**§ 41.5. Treatment of collateral.**

(a) When a loan contract is in default and a licensee proceeds by due process of law to issue execution against a consumer, the consumer may be charged with attorney's fees, court costs and the actual and reasonable expenses of repossession, storing and selling the property.

(b) When a loan contract is in default and a licensee obtains possession of the security in a manner other than by writ of execution, the licensee shall immediately notify the consumer by registered or certified mail, directed to the last known address of the consumer, that the collateral will be sold at public or private sale and that the consumer may redeem his property upon payment of the contract in full at a licensed office of the licensee or, at the option of the licensee, may reinstate the contract upon payment of the past due payments and default charges, within 15 days of the date of mailing of the notice. The notice shall set forth the itemized amount necessary to redeem the collateral. Upon compliance with this subsection, the licensee may require the consumer to pay the actual costs incurred by the licensee in obtaining possession of the security. The Administrator reserves the right to determine the propriety of an item of cost charged to the consumer.

(c) When a consumer's property is sold at public or private sale because of default, the licensee shall return to the consumer the amount realized from the sale in excess of the total of the balance due, including accrued default charges and the actual costs incurred. The Administrator reserves the right to fix a fair value of a property sold in determining the excess due to a consumer when the property is not sold in a commercially reasonable manner, and the Administrator reserves the right to determine the propriety of an item of cost charged to the consumer.

(d) Whenever a consumer's property is sold or disposed of by public or private sale, a licensee shall, within 15 days of the date of sale, give notice to the consumer, by registered or certified mail directed to the last known address, of a deficiency claimed and a complete accounting of the costs of sale and of the proceeds of sale. This notice shall set forth the net balance remaining due. A licensee shall forfeit the right to a deficiency for failure to give the consumer the notices required in this section within the required time.

**§ 41.6. General.**

(a) A prospective licensee shall notify the Administrator of a contemplated purchase of contracts from a licensee and furnish the name and address of the licensee from whom the contracts will be purchased, the total number of contracts to be purchased, and the total outstanding principal balances thereof. Failure to

comply with this subsection may preclude a prospective licensee from obtaining a license. A licensee shall obtain prior approval of the Administrator for the purchase of contracts from another licensee and for the sale of contracts to another licensee. Requests for approval of purchase or sale of contracts shall state the name and address of the licensee from whom the contracts are to be purchased or to whom they are to be sold, the total number of contracts and the total outstanding principal balances thereof. A licensee may not sell or otherwise dispose of contracts to a person or corporation not holding a license under the act, unless prior written approval is obtained from the Administrator. The privilege of collecting the charges authorized by the act may not be transferred to an unlicensed purchaser. This subsection shall not apply to:

(1) The purchase or transfer of loan contracts between licensees under the same management and control.

(2) The occasional sale or transfer of a loan contract to an out-of-State affiliate to effect the collection thereof, or for the convenience of a consumer.

(3) The transfer of a loan contract by a licensee to any maker or person secondarily liable on the contract.

(b) A license issued by the Administrator under the provisions of the act may not be transferred to another corporation from the corporation whose name appears in the application upon which the license was issued.

(c) A change in officers, office managers or directors of a licensee shall be reported promptly to the Administrator.

(d) No other type of business may be operated at the licensed place of business except that which may be conducted in accordance with the provisions of section 13Q of the act (7 P. S. § 6213Q.).

(e) Section 12 of the act (7 P. S. § 6212) provides that the Administrator shall be satisfied that the experience of the office manager warrants the conclusion that the business will be honestly transacted in accordance with the intent and purpose of the act. The individual designated as office manager shall be the person actively in charge of the operation of the consumer discount company business on a full-time basis.

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