CHAPTER 2 LOANING MONEY

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200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all persons engaged in the District of Columbia in the business of loaning money, except the following:

(a) National banks;

(b) Licensed bankers;

(c) Trust companies;

(d) Savings banks; and

(e) Building and loan associations.

200.2 For purposes of this chapter, the term "1901 Act" means §§1178, 1179 and 1180 of the Act of March 1, 1901, as amended.

200.3 For purposes of this chapter, the term "1913 Act" means the Act of February 4, 1913, as amended.

200.4 A person is "engaged in the business of loaning money" in the District if that person holds out, by the maintenance of a place of business in the District or in any other manner, that a loan or loans of money may be effected by or through the person so holding out, plus the performance in the District by that person of one or more acts which result in the making or in the collection of a loan of money. (See: Horning v. D.C., 254 U.S. 135, 65 L.Ed. 185)

200.5 In no event shall any provision of the 1913 Act or the regulations promulgated pursuant to that act apply with respect to any loan or to the making of any loan:

(a) To any corporation that is unable to plead any statutes against usury in any action;

(b) Secured on real estate located outside of the District of Columbia;

(c) To a borrower residing, doing business, or incorporated outside of the District of Columbia; or

(d) Greater than twenty-five thousand dollars ($25,000).

AUTHORITY: Unless otherwise noted, the authority for this chapter is §§1178, 1179 and 1180 of the Act approved March 3, 1901 (31 *Stat.* 1377, ch. 854), and An Act approved February 4, 1913 (37 *Stat.* 657, ch. 26; D.C. Code §26-701 *et seq.*) (1991 Repl. Vol.).

SOURCE: Introduction and §§1(a), (b) and (i) of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR Introduction, §§1(a), (b) and (i), Special Edition (September 21, 1970); as amended by §3 of the Money Lenders Licensing Amendment Act of 1986, D.C. Law 6-188, 33 DCR 7687 (December 12, 1988).

201 LICENSE REQUIREMENTS

201.1 It shall be unlawful for any person to engage in the District of Columbia in the business of loaning money without first obtaining a money lender's license.

201.2 A Money Lender's License Class A shall authorize the holder of the license to engage in the District of Columbia in the business of loaning money upon which a rate of interest in excess of six percent (6%) per annum is charged or received. The license fee for this license shall be eight hundred dollars ($800) per year.

201.3 A Money Lender's License Class B shall authorize the holder of the license to engage in the District of Columbia in the business of loaning money upon which a rate of interest of six percent (6%) per annum or less is charged or received. The license fee for this license shall be three hundred nineteen dollars ($319) per year.

SOURCE: Section 2 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1959, 5Q DCRR §2.1, Special Edition (September 21, 1970).

202 APPLICATION FOR LICENSE

202.1 In addition to the requirements of §2 of the 1913 Act, as amended (D.C. Code §26-702 (1981)), each application for a money lender's license shall include the verified signature under oath and the true and lawful name of the applicant if an individual, or each member of a firm or association applicant, or the president or other executive officer of a corporate application.

202.2 In the case of a corporate applicant, there shall be furnished with the application a list, sworn to by the secretary of the corporation, stating the name of each person owning stock of the corporation together with the class and number of shares of stock owned by each such person.

202.3 If ten percent (10%) or more of any class of stock of a corporate applicant is owned by another corporation, the application shall include (for each such other corporation) a list sworn to by the secretary of the other corporation of the following:

(a) The names and addresses of all persons owning ten percent (10%) or more of any class of stock of the other corporation;

(b) The names and addresses of the officers and directors of the other corporation; and

(c) The date and place of incorporation of the other corporation.

202.4 Bond, as required by the 1913 Act (D.C. Code §26-702 (1981)), shall be filed with the application.

202.5 With each application for license there shall be filed under the oath of the applicant (if an individual, or of a member of a firm or association applicant, or of the secretary of a corporate applicant) a list of names and addresses of each person engaged in the business of insurance, or in the business of loaning money, or in the business of dealing in new or used motor vehicles or other chattels which, or liens on or interest in which, are acceptable to the applicant as collateral security for a loan of money, in which business(es) the individual applicant (or any member of a firm or association applicant; or any stockholder, officer, or director of the corporate applicant) has an interest.

202.6 Each applicant shall file with the application a list of any and all insurance agents' or brokers' licenses, notary public commissions, or any other licenses or commissions issued by the District to engage in any business, profession, or calling which are held by the individual applicant (or any member of a firm or association applicant, or any director or officer of a corporate applicant), and any employee of the applicant, together with the name of each person holding such a license or commission.

SOURCE: Section 2B of Regulations for the conduct of the business of loaning money, Commissioners' Order 275, 403/13, promulgated September 6, 1949, 5Q DCRR §§2.2, 2.3, and 2.5, Special Edition (September 21, 1970).

203 ISSUANCE OF LICENSES

203.1 Each license certificate shall be issued in the true and lawful name of the individual (or of the person or persons comprising the firm, partnership, voluntary association; or of the joint-stock company or the corporation) authorized by the license to conduct the money lending business.

203.2 Each license certificate shall contain the following:

(a) The name under which the business will be conducted;

(b) The address or addresses at which such business is to be conducted;

(c) The period for which the license is granted; and

(d) The date of issuance.

203.3 Each license certificate shall be signed by the Director, Department of Consumer and Regulatory Affairs (also referred to in this chapter as the "Director") or the Director's designee.

SOURCE: Section 3(a) of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §3.1, Special Edition (September 21, 1970).

204 CONDUCT OF THE BUSINESS

204.1 It shall be unlawful for any licensee to conduct this business under any other name than the name stated in the license certificate issued to the licensee.

204.2 Any licensee desiring to conduct his or her business under a name other than that stated in the license certificate shall file with the Director or the Director's designee, an application to change the name and shall surrender the license certificate. The Director shall issue a new certificate setting forth the new name, together with the statement that licensee formerly conducted the business under the old name.

204.3 A licensee may conduct business at any number of addresses that he or she may desire, but each separate address must appear upon the license certificate.

204.4 A duplicate certificate bearing the same information appearing on the original shall be obtained from the Director or the Director's designee for each additional address.

204.5 Each licensee shall frame the certificate of license (or duplicate) under glass and post it in a conspicuous public place in each place of business and keep the same available for inspection by any member of the Metropolitan Police Department, the Director or the Director's designee, or such other persons as the Mayor may designate.

204.6 No person shall be the holder, directly or indirectly, by direct ownership, stock ownership, interlocking directorate, or otherwise, of any interest in more than one class of money lender's license at any one time.

SOURCE: Sections 3(b), (c), (d) and (e) of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§3.2 through 3.5, Special Edition (September 21, 1970).

205 DUTIES OF LICENSEES TO BORROWERS

205.1 In addition to the duties imposed upon Class A licensees by the 1913 Act, Class A and Class B licensees shall deliver the following to each borrower at the time the loan of money is made:

(a) A statement in writing showing in clear and distinct terms the following:

(1) The actual amount of the loan;

(2) The date on which the loan is made;

(3) The terms of repayment of the loan, including the total number of installments and the amount of each installment, and listing as separate items principal, interest, insurance premiums, and each other charge included in the actual amount of the loan; and

(b) A copy of each writing relating to the loan and to the security for the loan which expresses any part of the obligations of the borrower to the lender or licensee or to any other person with respect to the loan and of the obligations of the lender or licensee or of any other person to the borrower with respect to the loan. If any of the original writing bears the signature of the borrower, the copy must be in the precise form as was the original at the time it was signed by the borrower.

205.2 A licensee shall deliver to each borrower a complete and legible receipt for each payment made on account of a loan of money at the time the payment is made.

205.3 Each receipt delivered pursuant to §205.2 shall show the following:

(a) The date and total amount of the payment; and

(b) The actual amount of the loan after receipt of the payment.

205.4 Upon payment in full of the actual amount of the loan and of all lawful charges on the loan, a licensee shall give the borrower a receipt showing payment in full of the loan.

205.5 Within ten (10) days of the payment in full, a licensee shall endorse, over the signature of the licensee (or of the member or officer of the licensee) the words **"PAID IN FULL"** upon the original note, and deliver to the borrower every original note and a release of the instrument of security.

SOURCE: Section 4 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275, 403/13, promulgated September 6, 1949, 5Q DCRR §4.1, Special Edition (September 21, 1970).

206 INTEREST

206.1 Interest shall be computed on the actual amount of the loan and shall not be charged or received to any greater rate than the maximum legal rate applicable to the loan of money.

206.2 No lender or licensee shall charge or receive any unaccrued interest on a loan of money.

206.3 No licensee shall accept as evidence of indebtedness of a borrower, or as an instrument of security for a loan of money, any evidence of indebtedness, instrument of security or other paper writing the face amount of which is in any amount greater than the actual amount of the loan; Provided, that licensees are authorized to accept as evidence of indebtedness and as instruments of security

for loans of money paper writings the face amounts of which include, in addition to the actual amount of the loan, a premium on insurance specifically authorized by this chapter.

SOURCE: Section 5 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§5.1, 5.2 and 5.3, Special Edition (September 21, 1970).

207 INSURANCE

207.1 A licensee may require a borrower to pay the premium on insurance authorized by this section, but not otherwise.

207.2 A copy of the policy of insurance on which the premium is required by the licensee to be paid by the borrower shall be delivered by the licensee to the borrower within twenty (20) days after the making of the loan.

207.3 In no case shall life insurance be required in cases in which property is accepted as collateral security for a loan of money.

207.4 No amount of money shall be charged or received by the licensee as premium on any policy of insurance unless the following is done:

(a) The evidence in writing of the loan of money describes each kind of insurance required by the licensee and states separately the term and premiums applicable to the insurance;

(b) An insurance policy or comparable evidence of a policy conforming to the term, description, and premiums set forth in the evidence of indebtedness has been furnished to the borrower prior to the date when any payment under that evidence of indebtedness is required to be made; and

(c) Prior to the date when the first payment under the evidence of indebtedness is required to be made, the licensee has furnished to the borrower an official receipt of the insurance company or its authorized representative, showing payment by the licensee to the insurance company on account or premium on the policy issued to the borrower of an amount not less than the amount of the premium set forth in said evidence of indebtedness.

207.5 In the case of a policy of insurance issued on an automatic renewal basis for a term less than the term of the loan, the amount of premium which may be included in the evidence of indebtedness shall not exceed the premium on that policy for one policy period.

207.6 If there is no collateral security for a loan of money, a reducing form of term life insurance on the life of the borrower in an amount not exceeding the actual amount of the loan for a term not exceeding the term of the loan may be required by the licensee.

207.7 If a loan of money be made upon the collateral security of household furniture and furnishings, fire and extended coverage insurance for a term not exceeding the

term of the loan in an amount not exceeding the fair market value of the collateral security property at the time policy is issued, payable to licensee and borrower as their interests may appear, may be required by the licensee.

207.8 If a loan of money be made upon the collateral security of a vehicle, fifty dollars, seventy-five dollars, or one hundred dollars ($50, $75, or $100) deductible collision, as well as fire and theft insurance (or comprehensive in lieu of fire and theft) for a term that does not exceed the term of the loan payable to the licensee and the borrower as their interests may appear, may be required by the licensee.

SOURCE: Section 6 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§6.1 through 6.7, Special Edition (September 21, 1970).

208 REPOSSESSION

208.1 No person, except a licensee or the authorized agent of a licensee acting under or by virtue or a right or authority contained in the evidence of indebtedness of, or instrument of security for, a loan of money made by that licensee, shall repossess within the District of Columbia property which was accepted as collateral security for a loan of money.

208.2 No person shall repossess, seize, or participate in any manner in the physical repossession or seizure of personal property offered as collateral security for a loan of money without first having three (3) sets of his or her fingerprints taken by the Metropolitan Police Department and filing the same with the Director or the Director's designee.

208.3 In the case of the repossession of property which was accepted as collateral security for a loan of money, it shall be the duty of the licensee for whose account the property was repossessed to give four (4) days written notice to the borrower by registered mail of each of the following:

(a) The proposed date, time, and place of the sale or other disposition of the property;

(b) The actual amount of the loan and other charges due; and

(c) That the borrower may, within the four (4) day notice period, redeem the property by paying to the licensee the actual amount of the loan and lawful charges authorized by this chapter.

208.4 If the borrower fails to redeem the property under §208.3(c), unless the period of redemption is extended by the licensee, the licensee shall effect the cancellation of any insurance on the property for which the premium has been paid by the borrower.

208.5 Upon cancellation of an insurance policy under §208.4, the licensee shall ascertain the amount of unearned premium to be refunded by the insurance company, and shall apply the amount of that refund to the actual amount of the loan and charges authorized by this chapter.

208.6 If the borrower fails to redeem the property under §208.3(c), the licensee shall sell or dispose of (or cause the sale or disposition of) the property at a price not less than the highest current market value of the property at the time of sale or disposition.

208.7 Within ten (10) days after the sale or disposition of the property under this section, the licensee shall do the following:

(a) Apply the proceeds of the sale or disposition of the property to payment of the actual amount of the loan and lawful charges authorized by this chapter;

(b) Remit to the borrower any balance; and

(c) Deliver the note or other evidence of indebtedness to the borrower marked **"PAID AND CANCELLED,"** along with a release of any evidence of indebtedness or instrument of security for the loan.

208.8 If the price paid for property at sale or disposition is less than the total actual amount of the loan (plus lawful charges authorized under this chapter), the note or other evidence of indebtedness of the borrower shall be endorsed by the licensee to show curtailment of the actual amount of the loan in an amount equal to the sale or disposition price less lawful charges authorized by this chapter.

208.9 Within five (5) days after the sale or disposition of the property, the licensee shall deliver to the borrower a full account giving the date, time, and place of the sale, the price for which the property was sold or disposed of, an itemized statement of expenses incident to the sale or disposition, and the name of the person to whom the property was sold or transferred.

208.10 The licensee shall deliver a copy of the information provided to the borrower under §208.9 to the Director or the Director's designee.

208.11 Whenever within the knowledge of the licensee in the repossession of collateral security, property other than the collateral is taken, it shall be the duty of the person secured by the instrument granting or purporting to grant authority for the repossession to tender delivery of the other property, in the same condition as it was at the time of the taking, to the person from whom that other property was taken, within forty-eight (48) hours after the taking.

208.12 Each licensee shall make all repairs to repossessed property which will be compensated by the insurance covering the property at the time of repossession.

SOURCE: Section 7 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§7.1 through 7.3, Special Edition (September 21, 1970).

209 REPOSSESSION REGISTER

209.1 Each licensee shall maintain and have available at all times in the licensee's office or other place of business for inspection by the Director or the Director's designee in a separate bound register with non-removable pages to be provided by the licensee for that purpose, a record of all repossessions made by or on behalf of the licensee.

209.2 The licensee shall enter the following information on the repossession register:

(a) The name and address of the person from whom property has been repossessed;

(b) The default for which the repossession was made;

(c) The name and address of each person who participated in the repossession;

(d) The date, time, and place of sale or disposition of the repossessed property;

(e) The name and address of the person to whom the repossessed property was sold or transferred by the licensee;

(f) The amount for which the repossessed property was sold or disposed of by the licensee;

(g) A list of any and all repairs to the property not compensated by insurance which were made or caused to be made by the licensee for the purpose of putting the property in saleable condition, including the itemized cost of each repair and the name and address of the person employed by the licensee to make repairs;

(h) All items of expense incident to the sale or disposition of the property;

(i) The amount applied to the actual amount of the loan as refund of insurance premium or premiums;

(j) The amount applied to the actual amount of the loan from the proceeds of sale or disposition of the property; and

(k) The amount, if any, remitted to the borrower.

SOURCE: Section 8 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275, 403/13, promulgated September 6, 1949, 5Q DCRR §8.1, Special Edition (September 21, 1970).

210 TRANSACTION REGISTER

210.1 Each licensee shall keep and maintain in his office or place of business a register, as required by §4 of the 1913 Act, and each licensee shall enter in the register the data required by the Act.

210.2 The register shall be maintained from day to day as each transaction is entered into between the license and the borrower.

210.3 The register shall be a book of original entry.

210.4 In addition, every licensee shall enter the following information in the transaction register with respect to each loan:

(a) The name and address of every person from whom any fee or commission, by whatever name designated, was paid or agreed to be paid by the licensee in connection with such loan, and the amount of such fee, or commission so paid or agreed to be paid;

(b) A description of any property accepted as collateral security for the loan and in case such property be a motor vehicle, the manufacturers' name, and the year, model and motor number thereof;

(c) The perils insured against, and the amount and conditions of the policy of insurance against each such peril, the premium on which is included in the amount of the loan;

(d) The names and addresses of the companies issuing such insurance;

(e) The names of the brokers or agents by whom such insurance was written;

(f) The premiums charged on such insurance; and

(g) The term of the loan.

210.5 The register shall be kept numerically by numbers of loans in the order made and each entry shall have a proper column separating each item required to be shown under this chapter.

210.6 The same number assigned under §210.5 shall appear on the borrower's payment or receipt book and shall also appear in all other records pertaining to the loan required to be kept by the licensee under this chapter.

SOURCE: Section 9 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§9.1, 9.2 and 9.3, Special Edition (September 21, 1970).

211 PENALTIES AND FORFEITURES

211.1 In addition to all other penalties and forfeitures provided by law, any person violating any provision of this chapter, upon conviction, be fined three hundred dollars ($300), imprisoned for not less than thirty (30) days, or more than ninety (90) days, or both. In addition, the court may order any person violating this act to make restitution for the value of property illegally obtained as a result of the violation.

211.2 Money lender's licenses of both Class A and Class B shall be subject to revocation as provided in §6 of the 1913 Act for any violation of this chapter.

SOURCE: Section 10 of the Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §§10.1 and 10.2, Special Edition (September 21, 1970); as amended by §3 of the Money Lenders Licensing Amendment Act of 1986, D.C. Law 6-188, 33 DCR 7687, 7690.

299 DEFINITIONS

299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

1901 Act - Sections 1178, 1179 and 1180 of the Act of March 1, 1901, (31 *Stat.* 1377, ch. 854) as amended.

1913 Act - the Act of February 4, 1913, (37 *Stat.* 657, ch. 26) as amended.

Actual amount of the loan - the principal amount of money owed by a borrower at any given time, exclusive of interest.

Borrower - any person whose absolute promise to repay a loan of money was affected.

Comparable evidence of an insurance policy - a statement typewritten or printed in type as large as brevier or 8-point type, setting forth all information necessary to the exercise by the borrower of every right afforded under the terms of the insurance policy, as follows:

(a) The name of the insurance company and its address;

(b) The address of the local office of the insurance company, if any;

(c) The number of the policy;

(d) The date and hour on which the policy takes effect and the date and hour on which the policy terminates;

(e) The amount of the premium;

(f) The kind or kinds of insurance included in the policy;

(g) Any limitation pertaining to the insurance;

(h) The provisions for cancellation; and

(i) The procedure to be followed by the borrower in the making of any claim under the policy.

Engaged in the business of loaning money - the holding out in the District of Columbia, by the maintenance of a place of business in the District of Columbia or in any other manner, that a loan or loans of money may be effected by or through the person so holding out, plus the performance in the District of Columbia by that person of one or more acts which result in the making or in the collection of a loan of money.

Loan of money - each transaction, whatever its form and however designated, which is in truth the borrowing and lending of money, including every transaction, the substance of

which is the advance, directly or indirectly, by a lender to a borrower, of any sum of money upon an absolute promise to repay, irrespective of whether the money advanced is the property of the lender or the creditor.

Interest - shall include, in addition to any sum of money charged or paid as compensation for the use of money, all expenses, demands, and services of every character, notarial fees, recording fees, and every other fee and charge except:

(a) Premiums on insurance specifically authorized by this chapter shall be included as interest if the obtaining by the borrower of the insurance is a prerequisite for the making of the loan. Insurance, all or any part of the premium or commission on which insures directly or indirectly to the benefit of the licensee, or to the benefit of any person having any direct or indirect interest in the business of such license, shall be deemed to have been required by the licensee, unless the licensee shall satisfy the Director that the insurance in fact was not so required and that the borrower could not reasonably have believed that it was required;

(b) On a loan of money the actual amount of which is in excess of two hundred dollars ($200), notary fees authorized by law for notarization of the instrument of security and for the certificate of the licensee required by this chapter, and the charge made by the Recorder for recording the instrument of security; and

(c) Upon the foreclosure of the security for a loan of money charges for attorney's and agent's fees which do not exceed ten percent (10%) of the actual amount of the loan found due in the foreclosure proceeding, plus such fees and charges as are reasonable and necessary expenses incurred for the liquidation of the loan.

Licensee - a person to whom the government of the District of Columbia has granted a Class A or Class B Money Lender's License.

Person - shall include an individual, a firm, a partnership, a joint-stock company, a corporation, an association, an incorporated society, a statutory or common-law trust, an estate, an executor, an administrator, a receiver, a trustee, a conservator, a liquidator, a committee, an assignee, an officer, an employee, a principal or an agent.

Repossess and repossession - shall include every act, other than an act performed under authority of process issuing out of a court of competent jurisdiction, which contributes to or results in obtaining physical possession of tangible personal property which is collateral security for a loan of money for the purpose of liquidating the loan in whole or in part.

SOURCE: Section 1 of Regulations for the conduct of the business of loaning money, Commissioners' Order 275,403/13, promulgated September 6, 1949, 5Q DCRR §1, Special Edition (September 21, 1970).