

**THE DISTRICT OF COLUMBIA  
DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS**

**NOTICE OF PROPOSED RULEMAKING**

The Interim Commissioner of the Department of Banking and Financial Institutions of the District of Columbia, pursuant to the authority set forth in section 513 of the 21<sup>st</sup> Century Financial Modernization Act of 2000, effective June 9, 2001 (D.C. Law 13-308; D.C. Official Code § 26-131.13 (2001)) ("Act"), hereby gives notice of his intent to adopt the following amendment to Title 26A of the District of Columbia Municipal Regulations, "Banking and Financial Institutions", to add a new chapter 18, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed rules provide for the registration, examination, investigation, and supervision of operators of automated teller machines in the District of Columbia. The proposed rules also set forth the disclosure requirements for surcharges on automated teller machines and point of sale terminals.

**CHAPTER 18. AUTOMATED TELLER MACHINES**

**1800           SCOPE AND APPLICABILITY**

1800.1           Except as provided in §1800.2, this chapter shall apply to any person who operates an automated teller machine or point of sale terminal in the District of Columbia.

1800.2           This chapter shall not apply to any commercial bank, savings bank, savings and loan association, credit union, or trust company incorporated or chartered under the laws of the United States, any state of the United States, or the District of Columbia.

**1801           REGISTRATION OF AUTOMATED TELLER MACHINES**

1801.1           No person shall operate an automated teller machine unless a registration application is filed and approved by the Commissioner.

1801.2           A registration application shall be filed on a registration form as prescribed by the Commissioner and accompanied with a non-refundable registration fee in the amount of five hundred dollars (\$500) for the first automated teller machine operated by the operator in the District and fifty dollars (\$50) for each additional automated teller machine operated by the operator in the District.

1801.3           The registration application shall contain, at minimum, the following information:

(a) The name and address of the applicant;

- (b) The type of business structure;
  - (c) The state of incorporation;
  - (d) The name of a registered agent if the applicant is a corporation, association, entity or partnership operating under the laws of a state other than the District of Columbia;
  - (e) The safety policies and procedures for each automated teller machine to be operated by the applicant;
  - (f) The number of automated teller machines that will be operated in the District by the applicant and the date of installation of each automated teller machine; and
  - (g) The fees charged for each service provided or offered by each automated teller machine operated in the District.
- 1801.4 The Commissioner may require additional information to be included or submitted with a registration application.
- 1801.5 The Commissioner shall approve or deny a registration application not later than sixty (60) days from the date of filing the registration application.
- 1801.6 The registration of an automated teller machine shall expire one year from the date the registration application was approved by the Commissioner.
- 1802 RENEWAL OF REGISTRATION APPLICATION**
- 1802.1 In order to renew a registration required pursuant to this chapter, an operator shall file a renewal registration application, on a form prescribed by the Commissioner, for the operation of an automated teller machine not later than ninety (90) days before the expiration date of the operator's current registration for the automated teller machine.
- 1802.2 The renewal registration application shall be accompanied with a non-refundable renewal registration fee in the amount of five hundred dollars (\$500) for the first automated teller machine operated by the operator in the District and fifty dollars (\$50) for each additional automated teller machine operated by the operator in the District.
- 1802.3 The Commissioner shall approve or deny the renewal registration application not later than thirty (30) days from the date of filing the renewal registration application, except if the Commissioner extends the time within the thirty (30) day time frame for approving or denying a renewal.

**1803 REVOCATION AND SUSPENSION OF REGISTRATION**

- 1803.1 Except as provided in § 1803.2, the Commissioner may revoke or suspend the registration of an operator upon a finding that the operator:
- (a) Violated any applicable District or federal law, rule or regulation;
  - (b) Made a material misstatement in the registration application or any other document or statements provided to the Department;
  - (c) Engaged in any fraudulent, dishonest, or unsafe activity in connection with the operation of an automated teller machine;
  - (d) Demonstrated a lack of competence in connection with the operation of an automated teller machine; or
  - (e) Violated any order or written agreement issued by the Commissioner.
- 1803.2 Except as provided by § 1803.3, the Commissioner, prior to taking action pursuant to § 1803.1, shall issue and serve, by U.S. Mail, on an operator written notice of his or her intent to revoke or suspend the operator's registration. A notice of intent to revoke or suspend an operator's registration shall include:
- (a) The reasons for the proposed action;
  - (b) The date by which the operator may file a written response with the Commissioner; and
  - (c) The date by which the Commissioner will issue a final order revoking or suspending the operator's registration in the event the operator fails to respond to the notice of intent to revoke or suspend an operator's registration by the date provided in the notice of intent.
- 1803.3 The Commissioner may issue a temporary order revoking or suspending an operator's registration without providing the operator with a prior notice of intent if the Commissioner determines that the operator's continued operation may be a danger to public safety or health.
- 1803.4 A temporary order shall provide the operator with an opportunity to make a written response in accordance with § 1803.5.
- 1803.5 An operator may file a written response to a notice of intent to revoke or suspend the operator's registration or a temporary order within 15 days from the date of service of the notice of intent or temporary order. The written response shall include:

- (a) An explanation of why the proposed action or temporary order is not warranted; and
- (b) Any other relevant information, mitigating circumstance, documentation, or other evidence in support of the operator's position. The failure by an operator to file a written response with the Commissioner to a notice of intent or a temporary order within the specified time period, shall constitute a waiver of the opportunity to respond and shall constitute consent to a final order under § 1803.1 or § 1803.3.

1803.6 The Commissioner, after considering any response filed pursuant to § 1803.5, shall issue a final order pursuant to § 1803.1 or § 1803.3 within fifteen (15) business days after receiving a response from the operator pursuant to § 1803.5, or after the deadline upon which a response from the operator was due pursuant to § 1803.5.

**1804 RECORD KEEPING**

1804.1 An operator shall not make any material false or misleading statements or material omissions in its records or any other documents filed with the Commissioner.

**1805 DISCLOSURE OF SURCHARGES**

1805.1 A disclosure of surcharges on an automated teller machine and point of sale terminal shall be printed or typewritten in the English language. A disclosure of surcharges on an automated teller machine shall be provided electronically.

1805.2 A point of sale terminal shall have the disclosure of surcharges displayed on the front side of the point of sale terminal and the language shall be printed or typewritten in a conspicuous manner.

**1806 PROOF OF REGISTRATION**

1806.1 An operator of an automated teller machine shall affix a registration decal, issued by the Commissioner, to each automated teller machine operated in the District and registered pursuant to the Act.

1806.2 The registration decal required pursuant to § 1806.1 shall be affixed to the front side of the automated teller machine as directed by the Commissioner.

1806.3 No automated teller machine shall be operated in the District without a valid registration decal issued by the Commissioner.

All persons interested in commenting on the subject matter of the proposed rules should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be submitted to the Office of the General Counsel, Department of Banking and Financial Institutions, 1400 L Street, NW, Suite 400, Washington, DC 20005. Copies of the proposed rules may be obtained by writing to the address stated above.

**DISTRICT OF COLUMBIA  
DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS**

**NOTICE OF PROPOSED RULEMAKING**

The Interim Commissioner of the Department of Banking and Financial Institutions of the District of Columbia, pursuant to the authority set forth in section 25 of the Money Transmitters Act of 2000, effective July 18, 2000 (D.C. Law 13-140; D.C. Official Code §26-1001 *et seq.* (2001)) ("Act"), hereby gives notice of his intent to adopt the following amendment to Title 26A of the District of Columbia Municipal Regulations, "Banking and Financial Institutions" to add a new chapter, "Chapter 22 Money Transmitters" in not less than thirty (30) days from the date of the publication of this notice in the D.C. Register. The proposed rules provide for the regulation of persons engaged in the business of transmitting money in the District of Columbia.

**CHAPTER 22**

**MONEY TRANSMITTERS**

**2200           SCOPE**

2200.1           Unless specified otherwise, these rules shall govern persons engaged in the transmission of money in the District of Columbia whether it is within the United States or to locations abroad, by any means, including, but not limited to, payment instrument, wire, facsimile, or electronic transfer.

**2201           REQUIREMENT FOR BUSINESS LOCATION IN THE DISTRICT**

2201.1           No licensee shall engage in the transmission of money unless the licensee conducts such business at a location within the District of Columbia approved by the Department or through an authorized delegate approved by the Department and operating at a location within the District of Columbia approved by the Department.

**2202           WAIVER OF PERMISSIBLE INVESTMENTS AND STATUTORY TRUST**

2202.1           An applicant that seeks a waiver of the permissible investments and statutory trust requirement of section 6 of the Act shall file a request for a waiver of the permissible investments and statutory trust requirement with the Department.

2202.2           A request for a waiver of the requirements of section 6 of the Act shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the waiver. The request also shall include a calculation of the applicant's permissible investments and their aggregate market value, calculated in accordance with generally accepted accounting principles, and the amount of all

outstanding payment instruments issued or sold by the applicant in the United States.

- 2202.3 Upon receipt of a request for a waiver pursuant to § 2202.2, the Department shall compare the applicant's total dollar volume of outstanding payment instruments to the applicant's posted bond or other security device as set forth in section 6 of the Act and shall determine if the dollar volume of the applicant's outstanding payment instruments does not exceed the bond or other security devices posted by the applicant pursuant to section 8 of the Act. In addition, the Department shall determine if just and reasonable cause exists for a waiver and if a waiver pursuant to § 2202.2 would be consistent with the purposes of the Act.
- 2202.4 Within sixty (60) days of receipt of a request for a waiver pursuant to § 2202.2 and upon completion of the review pursuant to § 2202.3, the Department shall determine whether to waive the permissible investments and statutory trust requirement of section 6 of the Act and whether to impose conditions for the waiver.
- 2202.5 A person that receives a waiver pursuant to § 2202.4 that contains conditions for the waiver shall comply with all of the conditions. In the event that any of the conditions are not satisfied, the waiver shall be deemed void.

**2203 WAIVER OF LICENSE APPLICATION REQUIREMENTS**

- 2203.1 An applicant that seeks a waiver of any of the license application requirements of section 7(e) of the Act or who seeks to submit substituted information on its license application in lieu of the information required by section 7(e) of the Act shall request a waiver of the license application requirement or obtain authorization to submit substituted information from the Department.
- 2203.2 A request for a waiver pursuant to § 2203.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the waiver.
- 2203.3 Upon receipt of a request for a waiver pursuant to § 2203.2, the Department shall review the request to determine if just and reasonable cause exists for the waiver and if the waiver pursuant to § 2203.2 would be consistent with the purposes of the Act.
- 2203.4 Within sixty (60) days of receipt of a request made pursuant to § 2203.2 and upon completion of the review pursuant to § 2203.3, the Department shall determine whether to waive any of the license requirements of section 7(e) of the Act or the Department shall determine whether to permit substituted information on the license application in lieu of the information required in section 7(e) of the Act.

**2204 SUBSTITUTION OF OTHER SECURITY DEVICE**

- 2204.1 An applicant that seeks to substitute a security device other than a surety bond or irrevocable letter of credit pursuant to section 8(a) of the Act shall file a request for approval for the substituted security device with the Department.

- 2204.2 The request for a substitute security device pursuant to § 2204.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the substitution and why such other security device should be acceptable under the Act.
- 2204.3 Upon receipt of a request for a substitute security device pursuant to § 2204.2, the Department shall review the request to determine if the substituted security device is in a form satisfactory to the Department and if the substituted security device runs to the District of Columbia for the benefit of all claimants against the applicant to secure the faithful performance of the applicant with respect to the receipt, handling, transmission, or payment of money in connection with the sale and issuance of payment instruments or transmission of money. In addition, the Department shall determine if just and reasonable cause exists for a substitution and if a substitution pursuant to § 2204.2 would be consistent with the purposes of the Act.
- 2204.4 Within sixty (60) days of receipt of a request pursuant to § 2204.2 and upon completion of the review pursuant to § 2204.3, the Department shall determine whether to approve the substitute security device in lieu of a surety bond or irrevocable letter of credit.
- 2205 DEPOSITING OF CASH, INTEREST-BEARING STOCKS AND BONDS, NOTES, DEBENTURES OR OTHER OBLIGATIONS**
- 2205.1 An applicant that seeks to deposit cash, interest-bearing stocks and bonds, notes, debentures or other obligations, in lieu of a security device, pursuant to section 8(b) of the Act shall file a request for approval with the Department.
- 2205.2 A request filed pursuant to § 2205.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking substituted deposit(s) and why a substituted deposit should be acceptable to the Department. The request also shall include a calculation of the applicant's permissible investments and their aggregate market value, calculated in accordance with generally accepted accounting principles and the amount of all outstanding payment instruments issued or sold by the applicant in the United States.
- 2205.3 Upon receipt of a request filed pursuant to § 2205.2, the Department shall review the request to determine if the cash, interest-bearing stocks and bonds, notes debentures or other obligations the applicant proposes to use as a security device in lieu of a bond are issued or guaranteed by the United States or the District of Columbia or an agency or instrumentality of the United States or the District of Columbia. In addition, the Department shall determine if just and reasonable cause exists for a substitute deposit and if a substitute deposit pursuant to § 2205.2 would be consistent with the purposes of the Act.

2205.4 Within sixty (60) days of receipt of a request pursuant to § 2205.2 and upon completion of the review pursuant to § 2205.3, the Department shall determine whether to approve the substitute deposit.

**2206 ELIMINATION OR REDUCTION OF SECURITY DEVICE**

2206.1 An applicant that has ceased money transmission operations in the District of Columbia and proposes a waiver or a reduction of the security device requirements of section 8(c) of the Act shall request a waiver of the security device requirements or a reduction of the security device of the permissible investments and statutory trust requirement from the Department.

2206.2 A request for a waiver or reduction of the security device requirements pursuant to § 2206.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the waiver or reduction. The request also shall include a calculation of the applicant's outstanding payment instruments in the District of Columbia.

2206.3 Upon receipt of a request for a waiver pursuant to § 2206.2, the Department shall compare the reduction in the applicant's total dollar volume of outstanding payment instruments in the District of Columbia to the applicant's posted bond or other security device. In addition, the Department shall determine if just and reasonable cause exists for a waiver or reduction and if a waiver or reduction pursuant to § 2206.2 would be consistent with the purposes of the Act.

2206.4 Within sixty (60) days of receipt of a request pursuant to § 2206.2 and upon completion of the review pursuant to § 2206.3, the Department shall determine whether the applicant's security device shall be reduced or eliminated prior to the 5-year holding period set forth in section 8(c) of the Act to the extent that the amount of the applicant's outstanding payment instruments in the District of Columbia are reduced.

**2207 SUBSTITUTION OF SECURITY DEVICE**

2207.1 An applicant that has ceased money transmission operations in the District of Columbia and seeks to substitute a letter of credit or other security device in place of the security device that was in place at the time the applicant ceased money transmission operations in the District of Columbia, pursuant to the requirements of section 8(c) of the Act, shall request approval from the Department.

2207.2 The request for approval to substitute another security device pursuant to § 2207.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking a substitution. The request also shall include a calculation of the applicant's outstanding payment instruments in the District of Columbia.

2207.3 Upon receipt of a request for approval filed pursuant to § 2207.2, the Department shall compare the applicant's total dollar volume of outstanding payment instruments in the District of Columbia to both the applicant's posted bond or other security device and the applicant's proposed substituted security device. In

addition, the Department shall determine if just and reasonable cause exists for a substitution and if a substitution pursuant to § 2207.2 would be consistent with the purposes of the Act.

2207.4 Within sixty (60) days of receipt of a request pursuant to § 2207.2 and upon completion of the review pursuant to § 2207.3, the Department shall determine whether to approve the substitution of another security device of the applicant to take the place of the applicant's security device in place at the time the applicant ceases money transmission operations in the District of Columbia.

**2208 INVESTIGATIONS**

2208.1 The Department may conduct an on-site investigation of an applicant, and its authorized delegate(s), for a license pursuant to section 10 of the Act.

2208.2 The Department shall charge a fee of sixty dollars (\$60) an hour per person including applicable travel time, plus all reasonably incurred costs, for conducting an on-site investigation of an applicant, and its authorized delegate(s), for a license. Reasonably incurred costs shall include, but are not limited to, airfare, lodging, food, parking, car usage out of state and mileage.

**2209 ANNUAL RENEWAL REPORT**

2209.1 The annual renewal report required under section 11 of the Act shall be in the form set forth in the attached Appendix.

2209.2 Every licensee shall complete the annual renewal report required in § 2209.1 and submit it to the Department at 1400 L Street, NW, Suite 400, Washington, DC 20005. The annual renewal report shall be submitted by December 31 of each year.

2209.3 Any licensee that fails to submit the annual renewal report as required by § 2209.2 shall be fined fifty dollars (\$50) for each day after the due date set forth in § 2209.2 that the report is not submitted to the Department. This fine shall be made payable to the D.C. Treasurer and the licensee shall submit the fee, along with the annual renewal report, to the Department at the address set forth in § 2209.2.

**2210 CHANGES IN CONTROL OF A LICENSEE**

2210.1 In order to request approval for a change in control of a licensee, the applicant shall provide information to the Department as required under §§ 2210.2 and 2210.3.

2210.2 The application for a change in control shall be made on a form as prescribed by the Commissioner.

2210.3 An application for a change in control filed pursuant to § 2210.2 shall be accompanied with financial and biographical information for the applicant, each

new officer or employee of the applicant or licensee and any other person required by the Department.

- 2210.4 The application fee for a change in control of a licensee shall be three hundred and fifty dollars (\$350) and shall be payable by check, made payable to the D.C. Treasurer. The application fee shall be submitted along with the application for a change in control as required in § 2210.2, to the Department at 1400 L Street, NW, Suite 400, Washington, DC 20005.
- 2210.5 A licensee that fails to submit the application for a change in control as required by § 2210.2 shall be fined one hundred dollars (\$100) for each day after the date of the change in control that the application is not filed with the Department.
- 2210.6 Any fine assessed pursuant to § 2210.5, shall be payable by check, made payable to the D.C. Treasurer, and shall be submitted along with the application for a change in control, to the Department at the address set forth in § 2210.4.

## **2211 EXAMINATIONS**

- 2211.1 The Department may conduct an on-site examination of a licensee and an authorized delegate of the licensee pursuant to section 14 of the Act.
- 2211.2 Each licensee or its authorized delegate(s) shall be subject to an examination at any time forty-five (45) days after the renewal of the licensee's license. The forty-five day notice required by section 14 of the Act shall be issued in conjunction with the renewal of the licensee's license.
- 2211.3 The licensee and its authorized delegate(s) shall each be assessed an examination fee of two hundred and fifty dollars (\$250) per examination, plus sixty dollars (\$60) per hour for each hour or fraction of each hour in excess of four (4) hours if an examination exceeds four (4) hours.
- 2211.4 In addition to the fee required by § 2211.3, the Department shall assess a licensee for all reasonably incurred costs, for conducting an on-site examination of a licensee or authorized delegate. Reasonably incurred costs shall include, but are not limited to, airfare, lodging, food, parking, car usage out of state and mileage.

## **2212 AUTHORIZED DELEGATE CONDUCT**

- 2212.1 The maximum remittance time for an authorized delegate to remit all monies owing to a licensee within the time required in accordance with the terms of the contract between the licensee and the authorized delegate, as set forth in section 18(c) of the Act, shall be thirty (30) calendar days.

## 2299 DEFINITIONS

2299.1 For the purpose of this chapter, the following terms have the meaning ascribed:

**Act** – The Money Transmitters Act of 2000, effective July 18, 2000 (D.C. Law 13-140; D.C. Official Code § 26-1001 et seq. (2001)).

**Applicant** - A person filing an application for a license, a renewal license, or a change in control under the Act.

**Authorized Delegate** - An entity designated by a licensee under the provisions of the Money Transmitters Act of 2000 to sell or issue payment instruments or engage in the business of transmitting money on behalf of the licensee.

**Department** - The Department of Banking and Financial Institutions.

**District** - The District of Columbia.

**Licensee** - A person licensed pursuant to the Money Transmitters Act of 2000.

**Person** - An individual, corporation, partnership, association, limited liability company, joint venture, government, or any other legal or commercial entity or agent.

**Shareholder with a controlling interest** – A person who owns, directly or indirectly, more than ten percent of any class of stock of the applicant.

APPENDIX

ANNUAL RENEWAL REPORT FORM

**RENEWAL APPLICATION FOR A MONEY TRANSMITTER LICENSE**  
Pursuant to the Money Transmitters Act of 2000  
(D.C. Law 13-140; D.C. Official Code § 26-1001 et seq. (2001)) ("Act")

**Answer All Questions. If not applicable, indicate with an N/A.**

***PART ONE – TO BE COMPLETED BY ALL APPLICANTS***

1. Applicant's name: \_\_\_\_\_
2. Fictitious or trade name: \_\_\_\_\_
3. Applicant's Federal Employer Identification Number: \_\_\_\_\_
4. Applicant's principal business office:  
Street Address: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Telephone number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-Mail: \_\_\_\_\_
5. Money Transmitter License number, if applicable \_\_\_\_\_
6. Name and address of principal contact person: *(license will be sent to this person)*  
Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Telephone number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-Mail: \_\_\_\_\_
7. Address at which the applicant keeps its books and records (if different from answer to Question 4).  
Street Address: \_\_\_\_\_  
City and State: \_\_\_\_\_

8. Applicant is a(n): (Check appropriate classification)

- |                                      |  |
|--------------------------------------|--|
| <input type="checkbox"/> Individual  | <input type="checkbox"/> Partnership             |
| <input type="checkbox"/> Association | <input type="checkbox"/> Joint Stock Association |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Other (explain): _____  |

9. Type of money transmission activity to be conducted (mark all that apply):

- |                                       |   |
|---------------------------------------|---|
| <input type="checkbox"/> Checks       | <input type="checkbox"/> Travelers Checks       |
| <input type="checkbox"/> Drafts       | <input type="checkbox"/> Wire Transfers         |
| <input type="checkbox"/> Money Orders | <input type="checkbox"/> Other (explain): _____ |
| <input type="checkbox"/> Stored Value |   |

10. Money transmission sales are conducted through (marked all that apply):

- |  |
|--|
| <input type="checkbox"/> Company Owned Outlets             |
| <input type="checkbox"/> Independent Authorized Delegates  |
| <input type="checkbox"/> Subsidiaries or Affiliate; and/or |
| <input type="checkbox"/> Other (explain): _____            |

11. Submit the following:

- (a) Complete name and address of each authorized delegate and each of the applicant's locations in the District of Columbia from which it conducts money transmission sales. (use separate 8½ x 11 sheet of paper)

State the total number of the applicant's locations in the District of Columbia:

\_\_\_\_\_

#### **PART TWO**

**INSTRUCTIONS:** Please check either "yes" or "no" in response to the following questions regarding changes since the last application or renewal. **IF THERE HAVE BEEN ANY CHANGES, PLEASE PROVIDE THE REQUESTED INFORMATION (Note that a response to the following questions does not constitute compliance with any separate statutory notice or reporting requirement):**

1. Has there been any change in principal officers, directors, partners, or individuals with a 25% or more ownership interest in the applicant since the last application or renewal?

Yes       No

If yes, please explain change(s) on a separate sheet, and include the name, title, business address and percentage ownership of each person who has acquired an ownership interest or become an officer or director of the applicant.

2. Has the applicant had its license suspended, revoked or renewal refused in any other state since the last application or renewal?

Yes       No

If yes, please explain on a separate sheet.

3. Has the applicant been subject to any enforcement action by a licensing authority in any other state since the last application or renewal?

Yes       No

If yes, please explain on a separate sheet.

4. Has there been any material litigation involving the applicant since the last application or renewal? Material litigation means litigation that, according to generally accepted accounting principles, is deemed significant to any licensee's financial health and would be required to be referenced in its annual audited financial statements, report to shareholders or similar documents.

Yes       No

If yes, please explain on a separate sheet.

5. Has there been any felony indictment or criminal conviction of any principal officer or partner of the applicant, or any individual with a 25% or more ownership interest in the applicant since the last application or renewal?

Yes       No

If yes, please explain on a separate sheet.

6. Has there been any substantive change to the form of instruments issued by the applicant since the last application or renewal, if not previously provided?

Yes       No

If yes, please provide a specimen if not previously provided.

7. Has there been any change in the applicant's principal clearing banks, clearing bank address or account number since the last application or renewal?

Yes       No

If yes, please list the name, address, contact name and account number on a separate sheet.

8. Has there been any material change to the applicant's authorized delegate contract since the last application or renewal?

Yes       No

If yes, please provide a copy.

9. Has there been any change to the applicant's internal auditor(s) since the last application or renewal?

Yes             No

If yes, please provide the new contact name and phone number on a separate sheet.

10. Has the applicant, or any principal officer, director, partner, or individual with a 25% or more ownership interest in the applicant, filed a petition in bankruptcy or reorganization since the last application or renewal?

Yes             No

If yes, please describe the proceedings on a separate sheet, and provide a copy of the petition and a copy of the discharge if applicable.

***PART THREE – TO BE COMPLETED BY NON-CORPORATE APPLICANTS (If you are a Corporate Applicant, please go to Part Four)***

1. For each of the applicant's principals and any other person(s) who will manage or control the applicant's money transmission business, provide:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

2. Submit a copy of applicant's registration or qualification to do business in the District of Columbia.
3. For each of applicant's principals, submit a *Personal Financial Statement* (attached).
4. Submit a copy of applicant's audited financial statements (including balance sheet, statement of income or loss, and statement of changes in financial position) for the current year and, if available, for the prior two (2) years.

**PART FOUR – TO BE COMPLETED BY CORPORATE APPLICANTS**

1. Submit the following:
  - A. The most recent audited financial statements of the applicant, including the balance sheet, statement of income, statement of stockholder's equity and statement of cash flow for the prior two (2) years, prepared by an independent certified public accountant, if not previously provided.

If the applicant is a wholly-owned subsidiary of another corporation, the applicant may submit either the parent's consolidated audited financial statements for the current year and prior two (2) years, or the parent's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three (3) years in lieu of the financial statements.
  - B. The most recent unaudited interim financial statements prepared for the applicant, dated no more than 120 days from the date of this application, if not previously provided.
  - C. Submit the following:
    - 1) The total dollar amount of the applicant's outstanding instruments and money transmissions in the District of Columbia.
      - (a) As of the date of the most recent audited financial statement, and
      - (b) As of the date of the interim financial statement filed in accordance with prior request 1(B).

- 2) The total dollar amount of the applicant's outstanding instruments and money transmissions in the United States.
  - (a) As of the date of the most recent audited financial statement, and
  - (b) As of the date of the unaudited interim financial statement filed in accordance with prior request 1(B).
2. Submit the number and dollar amount of payment instruments sold/issued and money transmissions conducted by the applicant from \_\_\_\_\_ through the close of business \_\_\_\_\_ (12 month period):
3. Submit a list of the applicant's permissible investments, and the book or market value of the investments.
  - (a) As of the date of the most recent audited financial statement, and
  - (b) As of the date of the unaudited interim financial statement filed in accordance with prior request 1(B).
4. If audited financial statements are not provided, and if permissible investments are required, the following is required:

A certification by an independent certified public accountant that the applicant's permissible investments, at all times possess a book or market value calculated in accordance with generally accepted accounting principles, of not less than the aggregate dollar amount of all outstanding payment instruments issued or sold by the licensee in the United States.
5. Submit proof of the surety bond required and/or a list of deposits and other obligations maintained in lieu of all or part of the corporate surety bond, as authorized by the Act. For each deposit, please designate the amount of each deposit, the financial institution in the District of Columbia that is the depository, and the account number.

*I certify that the foregoing responses are true, accurate and complete to the best of my knowledge and belief.*

6. For each executive officer, shareholder having a controlling interest, officer, manager or other person that will manage or direct the applicant's money transmission activities, provide the following:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

Residence Address: \_\_\_\_\_

- 7. Copies of all filings made by the applicant with the United States Securities and Exchange Commission, or a similar regulator outside the United States, within the year preceding the date of this application.

**PART FIVE- TO BE SUBMITTED BY ALL APPLICANTS**

Applicants shall complete and attach to this application the following forms, as prescribed by the Commissioner:

- (1) Money Transmitter License Bond Form;
- (2) Clean Hands Before Receiving a License or Permit Act of 1996 Certification Form;
- (3) Personal Financial Statement;
- (4) Certified Resident Agent Appointment Form; and
- (5) If applicable, Non-U.S. Citizen Supplemental Information Form

**PART SIX- TO BE COMPLETED BY ALL APPLICANTS**

**CERTIFICATION**

Having been duly sworn, and under the penalties of perjury, I hereby certify that the representations in this RENEWAL APPLICATION FOR MONEY TRANSMITTER LICENSE are true and correct to the best of my knowledge and belief. I understand that omissions or inaccuracies may result in denial of the APPLICATION.

\_\_\_\_\_  
(Name of Licensee)

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, appeared \_\_\_\_\_, known to me to be the person(s) named in, and who executed the foregoing application and made oath that the statements and representations set forth are true to the best of his/her/their knowledge and belief.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Submit this renewal application along with the required documentation and fee, and direct inquiries concerning licensing, preparation or filing of this renewal application to:**

**Department of Banking and Financial Institutions  
Safety and Soundness Division  
1400 L Street, NW, Suite 400  
Washington, DC 20005  
Phone: (202) 727-1563  
Fax: (202) 727-1290**

All persons interested in commenting on the subject matter of the proposed rules should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be submitted to the Office of the General Counsel, Department of Banking and Financial Institutions, 1400 L Street, NW, Suite 400, Washington, DC 20005. Copies of the proposed rules may be obtained by writing to the address stated above.



**6100 INTRODUCTION TO THE APPLICATION PROCESS**

- 6100.1 DCHA owns and operates rental housing properties in the District of Columbia under a program known as public housing and administers a Housing Choice Voucher Program that contracts with private landlords to provide rental housing to low and moderate income individuals and families. Households who participate in these programs pay rents as a percentage of their income known as a Total Tenant Payment.
- 6100.2 In order to receive public housing or Housing Choice Voucher Program assistance through DCHA, a person must file an application with the Client Placement Division in accordance with Section 6101. Once the application is filed, it will be dated and the applicant will be placed on the appropriate waiting list(s) in accordance with Section 6103.
- 6100.3 Periodically, as vacancies occur or are anticipated at DCHA owned and operated properties or as Housing Choice Vouchers become available, applicants at the top of the applicable waiting list(s) will interviewed in order to obtain and verify any and all information necessary to make an eligibility determination all in accordance with Sections 6106, 6107, 6108, and 6109. Eligible applicants for public housing will be placed in a selection pool and offered housing that meets their occupancy and accessibility needs as the appropriately sized units become available, see Section 6112 and 6113. Eligible applicants for the Housing Choice Voucher Program will be placed in a selection pool and offered a voucher as vouchers become available in accordance with the District of Columbia Housing Authority's Administrative Plan for the Section 8 Certificate and Housing Voucher Programs.
- 6100.4 The determination of eligibility and the process for the ultimate determination of ineligibility, including the informal conference and the option to request a review by an independent third party reviewer, are found in Section 6107.
- 6100.5 This Chapter also contains information on continued occupancy, such as recertification, adding individuals to the lease, and live-in aides in Sections 6116 and 6115.

**6101 APPLICATION**

- 6101.1 For the purposes of this Chapter, the term "application" means a prescribed form, and any additional supporting documents, required to be completed by each person seeking admission to public housing or the Housing Choice Voucher Program operated by DCHA.
- 6101.2 Each person seeking public housing owned and operated by DCHA or rental assistance through the Housing Choice Voucher Program is required to file an

application with DCHA. A person who has filed an application is referred to as an applicant.

- 6101.3 Each applicant shall receive written notification of receipt of application.
- 6101.4 When an applicant applies for public housing or the Housing Choice Voucher Program his or her application shall be placed on the appropriate waiting list(s) in accordance with Section 6103 after review of the application under 6102

**6102 APPLICATION REVIEW**

- 6102.1 Upon submission of an application, the Client Placement Division will assign a date and time to the application for placement on the waiting list.
- 6102.2 A review of all applications shall be conducted by the Client Placement Division based on the data contained in the signed application. This review is limited to determining the completeness of the application.
- 6102.3 Where a review of an application finds the application is incomplete, the Client Placement Division will contact the applicant and request the missing information.
- 6102.4 At the time an applicant is placed on the waiting list, the Client Placement Division will review the application for a debt to any public housing or Housing Choice Voucher program. If a debt is found, the Client Placement Division will send a notice to the applicant of the debt, information on how to obtain the amount of any debt, and qualification, if any, for any special abatement programs. The applicant will be required to resolve the debt issue before they can complete the eligibility determination process.
- 6102.5 Annually, an applicant is required to update his or her application in accordance with Section 6103 of this Chapter.

**6103 WAITING LISTS**

- 6103.1 DCHA maintains waiting lists for its Public Housing Program and for its Housing Choice Voucher Tenant Based and Moderate Rehabilitation Programs.
- 6103.2 Applicants will identify the waiting list or waiting lists their names will be placed on. The waiting lists are organized by date and time of application and order of any applicable preference.
- 6103.3 The waiting lists list shall be maintained to ensure that applicants are referred to suitable unit types (for example for public housing, Mixed Population, General Population or accessible) and sizes.

- 6103.4 Applicants who meet the criteria for the preferences of this Chapter may have priority over applicants without preferences.
- 6103.5 Applicant families which include persons with disabilities who require specific accessibility features shall receive priority for those units designed with specific accessibility features.
- 6103.6 The only other system for assigning priority to eligible public housing applicants is date and time of application, unless otherwise specified in this Chapter including Sections 6111, 6112 and 6113 of this Chapter.
- 6103.7 DCHA will mail a waiting list update form to each applicant periodically.
- (a) Applicants who return a completed update form to the DCHA within thirty (30) days shall retain their place on the waiting list;
  - (b) If the applicant indicates that his/her circumstances have changed, the appropriate changes shall be made on the waiting list; and
  - (c) Applicants who do not return the completed update form within thirty (30) days shall be removed from the waiting list.
- 6103.8 Each applicant shall ensure that DCHA maintains his or her current mailing address at all times. Each change of address shall be reported in writing by the applicant.
- 6103.9 All applicants who update their applications shall be notified in writing of receipt of their updated information.

**6104 TEMPORARY CLOSURE OF THE WAITING LIST**

- 6104.1 If the number of families on the public housing or Housing Choice Voucher Program waiting list is such that there is no reasonable prospect that additional applicants for specific units types or sizes can be housed within the next twelve (12) months, the Executive Director, DCHA may approve action to do the following:
- (a) Suspend the taking of further applications for certain unit types, unit sizes, or projects developed for special purposes; and
  - (b) Limit application taking to certain specified periods of the year.
- 6104.2 When action is taken to suspend, limit or reopen the taking of applications, DCHA shall make known to the public through publication of notice in the D.C. Register and in newspaper(s) of general circulation, minority media, and other suitable means the following:

- (a) The nature of the action; and
- (b) The effective date of the action.

6104.3 Action to suspend, limit or reopen the taking of applications shall not take effect without at least ten (10) calendar days advance notice to the public in accordance with Subsection 6104.2.

6104.4 Notwithstanding the suspension of application taking, DCHA may continue to take applications from priority applicants eligible for priority placement on the waiting list pursuant to Subsection 6105.2 of this Chapter.

**6105 PREFERENCES FOR PUBLIC HOUSING**

6105.1 At the time of application, applicants self-certify their preference. Verification of a preference is not required until an applicant reaches the top of the waiting list. Applicants will be required to provide verification that they meet the preference as part of the eligibility determination process.

6105.2 The granting of a preference does not guarantee admission to public housing. Preferences are used merely to establish the order of placement on the waiting list. Every applicant for public housing or the Housing Choice Voucher Program must also meet DCHA's Applicant Selection Criteria outlined in Section 6109 below.

(a) Preferences

(1) Mixed Population Properties

- (i) the following admission preference system will be applied in the selection of otherwise eligible applicants from the waiting list (based on the time and date of application) for a public housing unit offered in mixed population properties:

Preference #1: Elderly Families and/or Disabled Families

Preference #2: Near Elderly Families

Preference #3: All Other Families

- (ii) no individual shall be considered a person with disabilities, for purposes of eligibility for public housing under this Title, solely on the basis of any current drug or alcohol dependence.

(2) General Population Properties -- the following applicant admission categories, including percentages, will be applied to the selection of otherwise eligible applicants from the public housing waiting list (based on the time and date of application) for public housing

units offered in general population properties:

Category #1: Working Families (50% Annually)

Category #2: All Other Families (40% Annually)

(3) Emergency Category -- Up to 10% (not to exceed 100 units) annually of all applicants housed in the general and/or mixed-population properties will be selected from qualified applicants in the emergency category. Emergency category is defined in 14 DCMR Section 6099.1.

(b) If there are no applicants on the waiting list that qualify for the emergency category, otherwise eligible applicants will be selected for admission.

(c) The admission systems described above will work in combination with requirements to match the characteristics of applicant families to the type of units available, including units for targeted populations, e.g., elderly, disabled. The ability to provide public housing for qualified applicants will depend on the availability of appropriately sized public housing units.

6105.3 The DCHA shall select families from the waiting list in the Emergency Category by date and time of application, except when a situation is a federally or locally declared natural disaster or civil disturbance, in which case the Executive Director has the discretion to waive date and time of application in selection. Any determination by the Executive Director to waive the date and time of application must be in writing stating the maximum number of applications that will be selected under these provisions or any limits on time for the waiver, with such waiver being approved for form and legal sufficiency by General Counsel and published in the D.C. Register.

6105.4 The preferences for admission to the Housing Choice Voucher Program are found in the DCHA's Administrative Plan for the Section 8 Certificate and Housing Voucher Programs.

**6106 ELIGIBILITY**

6106.1 DCHA shall consider an applicant eligible for selection for public housing or the Housing Choice Voucher Program if the applicant meets the following criteria:

(a) Qualifies as a family, as defined in Section 6099 of this Chapter;

(b) Annual income does not exceed the income limits for admission under Section 6108 of this Chapter;

(c) Family meets applicant family selection criteria under Section 6109 of this Chapter;

- (d) Family size meets the occupancy standards established by DCHA under Section 6110 of this Chapter; and
  - (e) Family provides all required information and signs all required documentation, including proof of citizenship or eligible immigrant status.
- 6106.2 As applicants near the top of the waiting list, the Client Placement Division will mail written notice to the last address provided in order to obtain information needed for a determination of eligibility. The letter will state:
- (a) The date and time of the eligibility interview;
  - (b) The location where the eligibility interview will be held; and
  - (c) The documents the applicant should bring to the eligibility interview.
- 6106.3 A family or applicant may make one request to reschedule an eligibility interview for the convenience of the applicant up to thirty (30) days after the scheduled eligibility interview date. However, DCHA will reschedule an eligibility interview as a reasonable accommodation if the applicant can demonstrate that a disability prevented them from rescheduling within the prescribed time period.
- 6106.4 If the waiting list for the particular type of family applying is not lengthy, in the judgment of DCHA, an eligibility interview may be conducted at the time of the submission of application to DCHA.
- 6106.5 The eligibility interview will be held in order to collect eligibility data, determine eligibility and identify any special problems or needs. As part of the eligibility determination, an applicant will be provided the opportunity to complete a reasonable accommodation request. All information shall be verified as a part of the eligibility determination.
- 6106.6 During the eligibility interview, the Client Placement Division shall assist the applicant in completing any forms necessary. The following forms are to be completed or signed by the applicant:
- (a) Privacy Act Notice;
  - (b) Asset Certification Form;
  - (c) Verification of Date of Birth for each Household Member;
  - (d) Social Security Number Certifications:
    - (1) Social Security Numbers for each Household Member 6 year old or older; or

- (2) Certification of inability to meet the documentation requirement where an applicant has a Social Security Number but no documentation; or
- (3) Certification that Social Security Numbers have not been issued.
- (e) Picture ID for family members age eighteen (18) or older;
- (f) Declaration of Section 214 Status (Non-citizen Rule);
- (g) Verification of Preference or Admission Category;
- (h) Verification of Full-time Student Status Form;
- (i) Certification of Disability Form;
- (j) Statement of Child Care Expense Form;
- (k) Zero Income Statement;
- (l) Verification of Income from Assets;
- (m) Statement of Child Support;
- (n) Income Verification (Employment, Public Assistance, Social Security); and
- (o) Other Forms as may be required.

6106.7 At the end of the eligibility interview, the Client Placement Division shall provide the applicant with written notification of any missing or incomplete forms, information on how to determine if any debt remains unpaid to DCHA or any HCVP landlord, or any additional information which is to be provided by the applicant.

6106.8 If an applicant cannot complete all the necessary forms at the time of the interview, the interviewer may request that any additional required forms be completed by the applicant within a specified timeframe not to exceed ten (10) days.

6106.9 A written receipt shall be provided to the applicant for any additional information provided.

6106.10 Applicants who do not provide the additional items requested by DCHA pursuant to Subsection 6106.8 within ten (10) days, may request one (1) extension of time

not to exceed ten (10) days.

6106.11 Applicants who do not provide additional items requested by DCHA pursuant to Subsection 6106.8 within ten (10) days, or within any additional period allowed under Subsection 6106.9, shall be removed from the waiting list.

6106.12 If an applicant experiences difficulty in securing verification in the prescribed form, DCHA may accept other documents to expedite the certification process (for example, baptismal or school records could be used as proof of birth).

**6107 ELIGIBILITY DETERMINATION**

6107.1 After reviewing the application, additional supporting documents and obtaining necessary verifications, DCHA shall determine the applicant's eligibility in accordance with Section 6104 of this Chapter.

6107.2 Applicants determined to be eligible for housing shall be placed in the selection pool.

6107.3 DCHA must mail a letter to each applicant determined to be ineligible and the notification of ineligibility shall contain:

- (a) The date and time of the informal conference;
- (b) The location where the informal conference will be held;
- (c) The reason for the determination of ineligibility;
- (d) The applicant's right to bring new or additional information to the informal conference;
- (e) The type of additional documentation or information DCHA may need in order to reconsider an applicant's eligibility for the public housing and Housing Choice Voucher programs; and
- (f) The applicant's right to bring an attorney or any other representative to the informal conference.

6107.4 The informal conference shall be scheduled and/or rescheduled as follows:

- (a) The date of the informal conference shall be no sooner than fifteen (15) days and no later than thirty (30) days after the postmark date of DCHA's letter to the applicant.
- (b) A family or applicant may request to reschedule an informal conference for the convenience of the applicant any time up to two (2) days after the scheduled informal conference date. If a family or applicant fails to attend

the conference rescheduled for their convenience they may make one final request for rescheduling any time up to two (2) days after the rescheduled informal conference date.

- (c) Notwithstanding Subparagraph (b) above, DCHA will reschedule an informal conference as a reasonable accommodation if the applicant can demonstrate that a disability prevented them from rescheduling within the prescribed time period.

6107.5 If the applicant does not attend the informal conference, a supervisor in the Client Placement Division will conduct a review of the application to determine if the applicant is eligible for public housing. This supervisory review will take place even where no additional information is provided by the applicant or the applicant's representative.

6107.6 Applicants determined to be eligible after the supervisory review or the informal conference will be notified in writing and placed in the selection pool.

6107.7 When an applicant is determined ineligible after the informal conference or supervisory review, the Client Placement Division will issue a letter informing the applicant of their right to:

- (a) A review by an independent third party acceptable to DCHA willing to review applicant files *pro bono*; and
- (b) Bring a grievance pursuant to Chapter 63 or Chapter 89 of this Title.

6107.8 When an applicant is determined ineligible for public housing or the Housing Choice Voucher Program, the applicant will be removed from the waiting list and his or her application will be retained up to three years in an inactive status.

6107.9 Applicants who were determined ineligible solely by reason of an unpaid debt may, at any time during their inactive status, provide evidence that the debt has been paid or otherwise resolved. These applicants may be returned to the waiting list with the same date and time of application as the date and time the applicant had when the applicant was placed on inactive status.

**6108 INCOME LIMITS**

6108.1 To be eligible for admission to public housing or the Housing Choice Voucher Program an applicant's annual income shall be within the limits of lower income families established by HUD, based on the family size.

6108.2 Income limits for lower income families and very low income families shall be as established and revised periodically by HUD. HUD establishes low income limits based on eighty percent (80%) of the area median income, very low income limits

based on fifty percent (50%) of the area median income, and extremely low income limits based on thirty percent (30%) of the area median income.

6108.3 Income limits shall be applied at the time of eligibility determinations by the Client Placement Division.

6108.4 Based on HUD regulations, DCHA shall ensure that actual admission of eligible lower income families from waiting list is as follows: at least forty percent (40%) shall be families with extremely low incomes at the time of commencement of occupancy.

**6109 APPLICANT FAMILY SELECTION CRITERIA**

6109.1 This Section applies to applicants for public housing and to applicants for the Housing Choice Voucher Program. All Subsections of this Section are applicable to applicants for public housing. Only Subsections 6109.3, 6109.4, 6109.6, 6109.7 and 6109.8 apply to both applicants for public housing and the Housing Choice Voucher Program.

6109.2 Information that will be considered in screening an applicant shall be reasonably related to assessing the applicant and other applicant family members listed on the application. The applicant's history (e.g., employment history, personal habits or practices, and/or rental or personal credit history) must demonstrate the capacity to comply with the terms of the DCHA lease. If the applicant requires support (e.g., live-in aide) to enable him/her to meet the standards identified below, the applicant must demonstrate that the necessary support would be available at the time of admission. Additionally, the applicant, including the applicant's family must be willing to:

- (a) Not interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community;
- (b) Enhance and/or maintain the physical environment or financial stability of the project;
- (c) Help create an environment where young people, especially children, can live, learn, and develop into productive and responsible citizens;
- (d) Attend and complete DCHA's Community Living Training Program, prior to admission; and
- (e) Comply with the terms and conditions of the DCHA lease.

6109.3 DCHA will utilize the following methods in determining an applicant's eligibility for admission: reference checks, including current and/or previous landlords,

consultations with current and/or former neighbors, conducting home visits, reviewing police reports and/or criminal background checks of each member of the applicant family, including juveniles, as may be permitted by law.

6109.4 Relevant information respecting personal habits or practices to be considered in the admission process, may include, but is not limited to, the following:

- (a) A reasonable cause to believe, supported by signed documentation, that any family member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of any DCHA programs by other residents, employees or community members; and
- (b) An applicant's past performance in meeting financial obligations, especially rental payment obligations. An applicant who is responsible for any debt to DCHA, any other housing authority, or any landlord participant in any federally assisted housing program (e.g., the Housing Choice Voucher Program) may not be admitted or readmitted until the debt is paid or otherwise satisfied; and
- (c) A record of respecting the rights of others, as defined in the DCHA lease; and
- (d) The conviction of any applicant family member for a crime involving physical violence against persons or property or other criminal convictions that may adversely affect the health, safety, or welfare of other DCHA residents, staff, or other members of the community, e.g., distribution or manufacture of illegal drugs or controlled substances, possession of an unlicensed firearm and/or ammunition, or child molestation; and
- (e) A determination that the applicant has committed fraud in connection with any Federal housing assistance program or any local housing assistance program; and
- (f) An applicant's misrepresentation of any information related to eligibility, including, but not limited to, the award of a preference for admission, family composition, or income.

6109.5 If an applicant is determined eligible and qualified for admission, the applicant will be referred to a public housing property for housing, consistent with Section 6111 of this Title. Notwithstanding, prior to the applicant signing a DCHA lease, if the relevant property manager uncovers information regarding the applicant that would lead a reasonable person to believe that housing the applicant on the relevant property would interfere with the other residents' peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community, the property manager shall so advise the Client

Placement Division and refer the application for further consideration. The Client Placement Division will then conduct a further review of the application, taking into consideration the information provided.

6109.6 If unfavorable information is received as a result of the investigation conducted pursuant to Subsections 6109.2 or 6109.4 above, consideration shall be given to the time, nature, and extent of the applicant family's conduct, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. Mitigating circumstances might include, but are not limited to:

- (a) Evidence of favorable changes in the applicant's pattern of behavior, including the length of time since an offense or behavior was committed; or
- (b) Evidence of successful rehabilitation, e.g., evidence that the responsible member of the applicant family is not likely to repeat the prior criminal behavior, evidence that neither the applicant nor any member of the applicant family is likely to cause harm to the other public housing or Housing Choice Voucher Program residents, DCHA staff, or other members of the community; or
- (c) Evidence of the applicant's participation in or willingness to participate in relevant social service activities or other appropriate counseling services; or
- (d) Evidence of the applicant's modification of previous disqualifying behavior, with indications of continuing support intended to assist the applicant in modifying the disqualifying behaviors.

6109.7 With respect to criminal conviction(s) or activity:

- (a) The DCHA may deny admission to public housing or the Housing Choice Voucher Program to any applicant:
  - (1) If any adult member of the applicant's family (or any non-adult member who has been convicted of a crime as an adult) has been convicted of a felony, or a misdemeanor involving destruction of property or acts of violence against another person; or
  - (2) If the applicant or a member of the applicant's family has participated in violent criminal behavior within the last five years for which he/she has not been convicted. This violent criminal behavior must be documented by an arrest record, parole violation report, law enforcement criminal history report, or other official law enforcement record.

- (b) DCHA shall deny admission to any applicant who has been evicted from housing assisted under the United States Housing Act, for drug-related criminal activity for a three year period beginning from the date of the eviction.
- (c) In determining whether an applicant, as identified in Subparagraphs (a) and/or (b) will be admitted into public housing or the Housing Choice Voucher Program, DCHA shall make an assessment of the applicant's (or the relevant member of the applicant's family) behavior to determine whether he/she currently demonstrates that he/she has been rehabilitated. Factors that DCHA may consider include, but are not limited to, the following: acknowledgment of culpability; adequate and suitable employment or participation in a generally recognized training program; substance abuse treatment, if necessary; successful completion of therapy directed at correcting the behavior that lead to the criminal activity; and existence of a support network or support systems.
- (d) In collecting relevant information necessary to make the assessment described in Subparagraph (c) above, DCHA shall, at its sole discretion, determine the extent and depth of the verification for each applicant. Information may be requested from various sources, including, but not limited to, the applicant (by interview and/or home visit), landlords, clergy, employers, family members, social workers, parole officers, court records, drug treatment counselors, neighbors, and/or police department records.
- (e) DCHA shall prohibit admission of any family that includes any individual who is subject to a lifetime registration requirement under any sex offender registration program (e.g., state, local or international). DCHA shall, upon request, provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.
- (f) DCHA shall prohibit admission for any individual that has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine or production of methamphetamine on the premises of federally assisted housing.

6109.8

Care and consideration shall be used in soliciting personal information concerning the applicant and his/her family members, and appropriate authorizations shall be obtained for the release of information, as necessary, from each applicant family. Any information received regarding an individual applicant will be used solely for the purpose of determining eligibility and will not be released for any other use, unless such release is required by law. Failure to sign the required release forms or the failure to submit information determined necessary to establish eligibility, shall result in the applicant's removal from the waiting list. If the applicant is

removed from the waiting list because of such a failure, the informal conference procedures set forth in Section 6107 shall not apply.

6109.9 The DCHA Applicant Family Selection Criteria will not be used to determine eligibility of residents for continuing occupancy in the same public housing unit. Eligibility for continuing occupancy in the same unit will be made in accordance with the terms and conditions of the DCHA lease.

6109.10 Resident requests for transfers will be subject to this Section -- Applicant Family Selection Criteria-- and shall be a requirement for transfer of residents and the execution of new leases. This Section will not be applicable to DCHA initiated transfers or approved emergency medical transfers.

#### 6110 OCCUPANCY STANDARDS

6110.1 Standards for admission and continued occupancy shall be established to avoid overcrowding and wasted space, and each dwelling unit shall be leased in accordance with the standards of this Subtitle and Subtitle A of this Title.

6110.2 Tenants shall be assigned to dwelling units which consist of the number of rooms necessary to provide decent, safe and sanitary accommodations without overcrowding or wasting space. The following standards for unit size at admission, and for continued occupancy, shall apply:

Unit Size (Number of Bedrooms)	Minimum Number of Persons in Unit	Maximum Number of Persons in Unit
0	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10
6	10	12

6110.3 Dwelling units shall be assigned in a manner that will eliminate the need for persons of the opposite sex, other than husband and wife, to occupy the same bedroom.

6110.4 Every member of the family, regardless of age, shall be considered a person when applying the standards for admission and continued occupancy. In accordance with Chapter 74, DCHA will consider unit assignment to a larger size to provide a separate bedroom for a disabled person, if verified as medically necessary.

- 6110.5 Each dwelling unit shall be used solely as a residence for the tenant and the tenant's family as represented in the application for housing, and the dwelling lease.
- 6110.6 When possible, occupancy shall be restricted at admission to minimum requirements to allow for family growth.
- 6110.7 Application of occupancy requirements for continued occupancy shall be consistent with Subsection 6114.7 and Subsection 6205.2 of this Subtitle.
- 6111 TENANT ASSIGNMENT**
- 6111.1 When an applicant reaches the top of the waiting list, DCHA shall review the applicant's file to determine whether the information is current and correct. Information shall be considered current if it was submitted and verified by DCHA within no more than ninety (90) days prior to tenant assignment.
- 6111.2 If updated information is required, the applicant shall be required to submit information in accordance with Section 6106 of this Chapter.
- 6111.3 Eligible applicants shall be offered an appropriate unit, when available, consistent with the priorities and requirements of this Title.
- 6111.4 Each applicant shall be assigned an appropriate unit, on a community-wide basis, in sequence based upon the date and time of application, suitable type or size or unit, preference, consistent with the objectives of Title VI of the Civil Rights Act of 1964, and applicable HUD regulations and requirements.
- 6111.5 Suitable vacancies arising at a given time at any location shall be offered to the selected applicant first in sequence at the time of vacancy; provided, that referrals may be made out of sequence in the following situations:
- (a) For applicants with a preference or in the emergency category, assignments shall be made to units in sequence based upon the date and time of application, as indicated in Section 6105;
  - (b) For low income families, as indicated in Subsection 6105;
  - (c) For disabled families as indicated in Section 6112; and
  - (d) For comprehensive modernization properties and new developments as indicated in Section 6113.
- 6111.6 Applicants shall be offered vacancies pursuant to Subsections 6111.6 through 6111.13.

- 6111.7 If the applicant rejects two (2) offers, he or she shall be removed from the waiting list. There shall have been a rejection of a prior offer before the applicant may be offered a second location.
- 6111.8 If the applicant is willing to accept the unit offered but is unable to move at the time of the offer, and presents clear evidence to DCHA's satisfaction of his or her inability to move, refusal of the offer shall not count as one of the number of allowable refusals permitted the applicant before removing the applicant from the waiting list.
- 6111.9 If the applicant presents evidence to the satisfaction of DCHA that acceptance of a given offer of a suitable vacancy may result in undue hardship not related to considerations of race, sex, color, or national origin, such as inaccessibility to employment, children's day care, refusal of such an offer shall not be counted as one of the number of allowable refusals permitted an applicant before removing the applicant from the waiting list.
- 6111.10 If a non-disabled family refuses to accept a vacancy in an accessible unit, the refusal shall not be counted as one of the allowable refusals.
- 6111.11 The following timing requirements shall be applicable to any offered vacancies:
- (a) The offer of a unit to an applicant shall be in writing, and the applicant shall contact DCHA within five (5) working days of the date of the written notification to schedule an appointment to inspect the unit offered;
  - (b) The appointment to inspect the unit shall be scheduled within three (3) working days of the date the applicant contacts DCHA;
  - (c) After the applicant has inspected the unit offered, the applicant shall, within twenty-four (24) hours, notify DCHA of acceptance or refusal of the unit offered; and
  - (d) If the applicant fails to meet any of these timing requirements, DCHA shall consider the failure as a rejection of the unit offered, and DCHA may offer the vacancy to the next applicant in order of priority.
- 6111.12 Applicants with preferences who decline a unit for reasons other than those allowed in Subsections 6111.8, 6111.9 or 6111.10 shall be removed from the waiting list.
- 6111.13 The following timing requirements shall be applicable to any offered vacancies:
- (a) The offer of a unit to an applicant shall be in writing;

- (b) The appointment to inspect the unit shall be schedule within three (3) working days of the date the applicant contacts DCHA;
- (c) After the applicant has inspected the unit offered, the applicant shall, within twenty-four (24) hours, notify DCHA of acceptance or refusal of the unit offered; and
- (d) If the applicant fails to meet any of these timing requirements, DCHA shall consider the failure as a rejection of the unit offered, and DCHA may offer the vacancy to the next applicant in order of priority.

6111.14 Applicants with preferences who decline a unit for reasons other than those allowed in Subsections 6111.10, 6111.11 or 6111.12 shall lose their preference provided in Subsection 6105.2, and shall be placed on the regular waiting list in accordance with their date and time of application.

6111.15 The following timing requirements shall be applicable to any offered vacancies:

- (a) The offer of a unit to an applicant shall be in writing;
- (b) The appointment to inspect the unit shall be schedule within three (3) working days of the date the applicant contacts HMA;
- (c) After the applicant has inspected the unit offered, the applicant shall, within twenty-four (24) hours, notify HMA of acceptance or refusal of the unit offered; and
- (d) If the applicant fails to meet any of these timing requirements, HMA shall consider the failure as a rejection of the unit offered, and HMA may offer the vacancy to the next applicant in order of priority.

**6112 TENANT SELECTION AND ASSIGNMENT: FAMILIES WITH DISABILITIES**

6112.1 In the selection of families to occupy units with special accessibility features for persons with disabilities, DCHA will first offer such units to families on its transfer list that include persons with disabilities who require such accessibility features over new admissions. If vacancies cannot be filled with families on the transfer list, then eligible families with disabilities on the waiting list will be offered the unit.

6112.2 If units with special accessibility features are vacant for a period of more than thirty (30) days, and there are no families with disabilities requesting the reasonable accommodation on the transfer or waiting lists, DCHA may offer the unit to an applicant who does not need the features available in the unit consistent with Section 6111 of this Chapter.

6112.3 Applicant families who do not need the accessibility features available in an offered unit, pursuant to Subsection 6112.2 and the provisions of their lease, shall be transferred to another unit if a family in need of the accessibility features of said unit is identified.

**6113 TENANT SELECTION AND ASSIGNMENT: COMPREHENSIVE MODERNIZATION PROPERTIES AND NEW DEVELOPMENT**

6113.1 Tenants and applicants shall be required to meet the following additional criteria prior to being assigned to a comprehensive modernization or newly developed housing property:

- (a) Attend a mandatory training program (if available and offered);
- (b) Be current in rent and other charges (for current DCHA tenants);
- (c) Not be in violation of the dwelling lease (for current DCHA tenants); and
- (d) Meet the criteria set forth in Section 6105 of this Chapter.

6113.2 As renovated units become available for initial occupancy at comprehensive modernization properties, vacancies shall be filled (by tenants or applicants meeting the criteria of Subsection 6113.1) based on the following priorities:

- (a) First preference to former property residents who were relocated to another DCHA dwelling unit or relocated with a Housing Choice Voucher;
- (b) Second preference to DCHA tenants in other properties who have been identified as inappropriately housed;
- (c) Third preference to other tenants who have requested a transfer; and
- (d) Fourth preference to applicants from the DCHA waiting list.

6113.3 Consistent with the priorities listed in Subsection 6113.2, tenants or applicants shall be assigned to available units in accordance with Subsection 6111.5 of this Chapter.

6113.4 As units become available for initial occupancy at newly developed housing, the priorities in Subsection 6113.2 shall be applied, except that Subsection 6113.2(a) shall not be applicable.

**6114 MOVE-IN REQUIREMENTS**

6114.1 Applicants from the waiting list who accept a unit shall pay one (1) month's

tenant rent and a security deposit prior to signing the dwelling lease. All rent and security deposits shall be paid by check or money order only.

6114.2 DCHA shall determine if the applicant's application is current, shall schedule an appointment with the applicant, and at the appointment shall do the following:

- (a) Review and complete all required certifications of eligibility and the dwelling lease; and
- (b) Obtain the applicant's signature on all required documents.

6114.3 The tenant shall attend any training required by DCHA.

6114.4 DCHA shall schedule a move-in date for the new tenant upon execution of the documents described in Subsection 6114.2 and shall provide the new tenant with copies. DCHA shall also conduct a move-in inspection in accordance with Section 6505 of this Subtitle.

**6115 ADDING INDIVIDUALS TO THE LEASE AND LIVE-IN AIDES**

6115.1 A family must request approval from DCHA to add any person, including other family members, as an occupant on their lease.

6115.2 The following shall apply to residents seeking to alter the status of their households in the following manner:

- (a) Residents seeking to add persons to the lease by marriage, reconciliation, or other changes in family composition that would add an adult person to a DCHA family, including the addition of a verified live-in aide or a remaining member of a household who wants to become head of household, will be subject to the DCHA Applicant Family Selection Criteria outlined in Section 6109 with respect to the new adult applicant.
- (b) Residents altering the status of their family by adding minor children other than by birth, such as by adoption or court-awarded custody of a child or adult, must notify DCHA at the time of the adoption or court-awarded custody and DCHA may require the family to transfer to an appropriately sized unit that will not result in overcrowding or occupancy in excess of the standards identified at Section 6110 of this Title.

6115.3 Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (a) Is determined to be essential to the care and well-being of the person(s);
- (b) Is not otherwise legally or financially obligated for the support of the person(s); and

- (c) Would not be living in the unit except to provide the necessary supportive services.

6115.4 A live-in aide is subject to approval of DCHA prior to occupancy. At any time, DCHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval. A live-in aide resides in a unit identified on a lease, but is not a lessee with rights of tenancy, or a resident with rights to participate in resident council. A live-in aide must abide by all the rules and regulations of DCHA as well as those of the particular property where they reside. DCHA will provide a thirty (30) day written notice to a resident of a determination to withdraw approval of a live-in aide. This decision by DCHA is subject to the Grievance Process available to tenants under Chapter 63 or Chapter 89 of this Title.

6115.5 The income of an approved live-in aide shall not be included in the calculation of rent, and the name of an approved live-in aide shall not be added as a tenant to the dwelling lease.

#### **6116 RECERTIFICATION**

6116.1 To ensure that residency in public housing is restricted to families continuing to meet the eligibility requirements, and that such families are charged appropriate rents, the eligibility status and the income of each tenant family shall be recertified by DCHA on at least a regular annual basis.

6116.2 A tenant shall be eligible for continued occupancy if the tenant meets the following criteria:

- (a) Meets the established occupancy standards;
- (b) Has no outstanding lease violations; and
- (c) Continues to meet the Applicant Family Selection Criteria, consistent with Section 6109 of this Chapter.

6116.3 Eligibility for continued occupancy shall be determined at least through recertification.

6116.4 The tenant shall be responsible for providing to DCHA a completed application for continued occupancy, including the appropriate forms related to verification. Tenants shall be required to return the recertification packages including any required substantiating documentation or verification forms, to DCHA within thirty (30) days of receipt.

6116.5 If the tenant experiences difficulty in securing the required information which may result in a delay of the recertification process, DCHA may accept other types of documentation to expedite the process (for example, baptismal or school

records could be used as proof of birth).

- 6116.6 Each tenant who does not return his or her completed recertification package within thirty (30) days shall be considered in violation of his or her lease, and shall be issued a Notice to Correct or Vacate.
- 6116.7 DCHA shall review the recertification package for accuracy and completeness, which shall include the requirements of Subsections 6116.6 through 6116.9.
- 6116.8 DCHA shall compare the family size and annual income to the currently applicable income limits. If the annual income does not exceed the maximum income limits, the tenant shall continue to be eligible. If the annual income exceeds applicable income limits, the tenant shall be ineligible for continued occupancy, and shall be notified of this determination in writing.
- 6116.9 DCHA shall compare the family size to the occupancy standards in Section 6110 and the requirement of Subsection 6205.5 of this Subtitle. If a family is found to be overcrowding or under occupying its dwelling unit, they shall be required to move into a dwelling unit of appropriate size when such a dwelling unit becomes available. A family, overcrowded in the largest-size dwelling unit in the public housing inventory may be allowed to remain.
- 6116.10 DCHA shall compare adjusted income with current tenant rent charges, and determine any required change in rent level in accordance with Chapter 62 of this Subtitle. Any decrease in tenant rent shall be effective at the start of the month following completion of the recertification. Any increase in tenant rent shall be effective at the start of the month following thirty (30) day notice of a rent increase to the tenant, in accordance with Chapter 62 of this Subtitle.
- 6116.11 Upon completion of the recertification, DCHA shall review any findings with the tenant, if necessary, and shall secure the tenant's signature on all required documents, and provide the tenant with written notification of receipt of the documents.
- 6116.12 Tenants who are determined ineligible for continued occupancy based on income may remain in occupancy until DCHA has identified a unit on the private market that is safe, sanitary, and decent, and that has a rental rate that does not exceed thirty percent (30%) of the family income.
- 6116.13 Tenants shall be issued a Notice to Vacate at the same time a suitable private market unit is identified. If the tenant should refuse to move to the identified unit, DCHA shall initiate eviction proceedings.

**6117 REPORTING CHANGE OF INCOME AND INTERIM  
RECERTIFICATION**

- 6117.1 It shall be the tenant's responsibility to report to DCHA any change in family circumstances, including changes in family size or income, as soon as the change occurs.
- 6117.2 When the tenant reports a change in family circumstances, DCHA shall determine if there is a need to perform an interim recertification based on the following:
- (a) If the tenant's annual recertification is in progress, or is scheduled to begin within ninety (90) days, no interim recertification shall be conducted, but the time of the scheduled annual recertification may be advanced;
  - (b) If the tenant is reporting a decrease in income and the annual recertification process is not in progress, or scheduled to begin within ninety (90) days, an interim recertification shall be conducted; or
  - (c) If the tenant is reporting an increase in income, an interim recertification shall be conducted only if the following applies:
    - (1) The increase in adjusted income is ten thousand dollars (\$10,000) a year or more; or
    - (2) It is determined that a household member has misrepresented his or her income.
- 6117.3 Interim recertification shall be performed by DCHA in accordance with Section 6116 of this Chapter.

**6118 RETROACTIVE RENT CHARGES**

- 6118.1 When the tenant has misrepresented the facts upon which the tenant rent is based, or has failed to furnish timely required income verifications to DCHA without good cause approved by DCHA, to the extent that the amount of tenant rent charged is less than it should have been, DCHA shall assess the tenant a retroactive rent charge.
- 6118.2 The amount of the retroactive charge shall be the additional amount of tenant rent the tenant would have been charged if there had not been misrepresentation, or failure to furnish income verification, by the tenant.
- 6118.3 If it is found at the time of recertification that the tenant failed to report changes in annual income as they occurred, and the changes would have required a higher tenant rent, the increased rent shall be made retroactive to the date the rent would have increased had the tenant made the report.

**6119 REASONABLE ACCOMMODATION NOTIFICATION**

6119.1 It is the policy of DCHA to grant reasonable accommodations pursuant to Chapter 74 of this Title. As provided in Chapter 74, DCHA will provide notice of the availability of reasonable accommodations for applicants, residents, and participating families. Reasonable accommodations can be requested by applicants, residents and participating families at any stage of the public or assisted housing application process or during occupancy.

6119.2 All applicant requests for reasonable accommodations shall be filed with the Client Placement Division and reviewed by the Program Manager or designee. The policies and procedures to request reasonable accommodations for applicants, residents, and participating families are applied pursuant to Chapter 74 of this Title.

**6120 GRIEVANCE PROCEDURES**

6120.1 Any applicant seeking admission to public housing operated by DCHA who believes that he or she has been aggrieved, or adversely affected by an act or failure to act by a DCHA employee or official, may file, with the DCHA, a complaint requesting an administrative determination of his or her rights as provided for in 14 DCMR Chapter 63. Applicants seeking admission to the Housing Choice Voucher Program housing may file a complaint as provided in 14 DCMR Chapter 89. ”

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than fifteen (15) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-901 et seq. (2001Ed.)); Section 14 of the Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 50-1301.03 (2001 Ed.)); Mayor's Order 82-213; and Mayor's Order 03-110, hereby gives notice of the intent to adopt the following rulemaking that would amend Chapter 8, § 803, and Chapter 26, § 2600, of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendment eliminates the requirement that parties involved in a motor vehicle accident submit an accident report to the Department of Motor Vehicles. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Title 18, DCMR, is amended as follows:

- A. Section 803, ACCIDENT REPORTS, is repealed.
- B. Chapter 26, Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, Subsection 2600.1 is amended by striking the following language:

Accident Report	
Failure to file [§ 803]	\$ 100.00
Inaccurate or incomplete [§ 803]	50.00

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with Angel Irene, Policy Analyst, D.C. Department of Motor Vehicles, 65 K Street, N.E., Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the publication of this notice in the D.C. Register. Copies of this proposal may be obtained, at cost, by writing to the above address.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Transportation, pursuant to the authority of Section 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002, (D.C. Law 14-137; D.C. Official Code § 50-921.06); Title VI of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code §§ 10-1141.01 et seq.); Mayor's Order 96-8, dated February 9, 1996; and Mayor's Order 2003-11, dated January 16, 2003, hereby gives notice of its intent to amend subsections 4 and 8 of §3302 of chapter 33 of Title 24 of the District of Columbia Municipal Regulations (DCMR). The proposed amendments would establish a separate Public Right of Way Occupancy rental rate for subsurface stand-alone conduit applicable only to permittees that provide water distribution and sewage collection, treatment, and disposal systems and services. The amendments would also exempt such permittees from paying the rental rate if they have entered into, and are in compliance with, a separate rental agreement with the Director. Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

24 DCMR Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, is amended as follows:

1. Subsection 3302.4 is amended to read as follows:

- 3302.4 All persons holding Public Right-of-Way Occupancy Permits issued pursuant to this section shall pay a rental fee as described herein. Except:
- (a) A Public-Right-of-Way Occupancy Permittee regulated by the Office of Cable Television and Telecommunications for the provision of cable or video services shall be exempt from the rental fee requirement for its stand-alone conduit, pipe, aerial wire, or surface structures housing transmission facilities related to its cable or video franchise; and
  - (b) A Public-Right-of-Way Occupancy Permittee that provides water distribution and sewage collection, treatment, and disposal systems and services, including the District of Columbia Water and Sewer Authority, shall be exempt from the rental fee requirement for such underground pipe if:

- (i) A separate rental agreement between the Permittee and the Director is in effect; and
  - (ii) The Permittee is not in breach of any term of the agreement, as determined by the Director.
2. Subsection 3302.8 is amended to read as follows:

3302.8 Public Right-of-Way Occupancy Permittees with stand-alone conduits or pipes in the public right-of-way below the surface thereof shall pay the following rental fee:

- (a) \$ 0.85 per linear foot of public right-of-way occupied for all permittees other than those described in paragraph (b) of this subsection; or
- (b) \$0.31 per linear foot of public right-of-way occupied if the Public Right-of-Way Occupancy Permittee provides water distribution and sewage collection, treatment, and disposal systems and services, including the District of Columbia Water and Sewer Authority; and
- (c) Notwithstanding the foregoing, a Public Right-of-Way Occupancy Permittee shall not be obliged to pay a rental fee:
  - (i) For those stand-alone conduits or pipes that the Department can reasonably determine were abandoned prior to March 31, 2000; or
  - (ii) If the Public Right-of-Way Occupancy Permittee is exempted by § 3302.4 from payment of the rental fee.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, with Lars Eitzkorn, Associate Director, Public Space Management, Department of Transportation, 2000 14th Street, N.W., 5th Floor, Washington, D.C. 20009. Copies of this proposal are available, at cost, by writing to the above address.

**DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE  
AND SECURITIES REGULATION**

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**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

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The Commissioner of the Department of Insurance and Securities Regulation ("Commissioner"), pursuant to the authority set forth in section 18 of the Producer Licensing Act of 2002, effective March 27, 2003, D.C. Law 14-264, 50 D.C.R. 260, hereby gives notice of his intent to adopt the following new chapter to Chapter 1 of Title 26 of the District of Columbia Municipal Regulations (DCMR) (Insurance), entitled Licensure As Insurance Producer, on an emergency basis. The Commissioner also gives notice of his intent to adopt this new chapter in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the new chapter is to establish qualifications and procedures for the licensing of insurance producers. The new chapter is being promulgated on an emergency basis so as to provide for the effective and continuous regulation of producers in the District of Columbia, and preventing the possibility of having a gap in legal authority.

These emergency rules were effective on May 27, 2003, and will expire 120 days after their effective date, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

**CHAPTER 1 OF TITLE 26 DCMR IS REPEALED AND REPLACED  
WITH THE FOLLOWING NEW CHAPTER TO READ AS FOLLOWS:**

**CHAPTER 1 - LICENSURE AS INSURANCE PRODUCER**

**100 GENERAL PROVISIONS**

- 100.1 No person shall act as, or hold himself out as, an insurance producer unless the person has been issued a license in accordance with this chapter.
- 100.2 An applicant for a license as a producer may receive qualification in one or more of the following lines of insurance:
- (a) life;
  - (b) accident, health or sickness;
  - (c) property;
  - (d) casualty;
  - (e) variable life and variable annuity products;
  - (f) credit;
  - (g) bail bonds; and

(h) surplus lines.

- 100.3 An applicant for a license as a producer shall submit a properly completed application along with a certificate evidencing completion of the required course of prelicensing education or a certificate evidencing waiver of that requirement, and shall pay the required fee as provided in section 105 of this chapter.
- 100.4 An applicant who is a non-resident of the District shall submit a properly completed application accompanied by a certificate from the insurance licensing authority of the applicant's home state or country that the applicant holds a valid license issued by that state or country showing, which authorizes the applicant to transact insurance business in the lines of insurance for which application is made.
- 100.5 A corporation or partnership applying for a license as a producer shall submit proof that:
- (a) The corporation or partnership has also complied with the registration requirements of the Department of Consumer and Regulatory Affairs to do business in the District; and
  - (b) Every officer, director, and shareholder of the corporation, or every member of the partnership, who personally engages in soliciting or negotiating policies of insurance in the District is individually licensed as a producer pursuant to this chapter.
- 100.6 An applicant for licensure as a bail bonds and surplus lines producer shall satisfy the licensure requirements applicable to property and casualty producers.

#### **101 PRELICENSURE EDUCATIONAL REQUIREMENTS**

- 101.1 Each applicant for licensure as a producer shall furnish, at the time of filing, an application and evidence of having satisfactorily completed a prelicensing course of instruction consisting of at least forty (40) hours. Every applicant for licensure shall take the appropriate examination within one (1) year of completing a prelicensing course.
- 101.2 Each course of instruction shall meet the content requirements and time distribution requirements for each line of insurance the applicant proposes to transact as set forth in Appendices 1, 2, 3, or 4, whichever is applicable.

#### **102 RENEWAL OF LICENSES**

- 102.1 A license issued pursuant to this chapter shall expire on April 30th of each odd numbered year.

- 102.2 At least thirty (30) days prior to the expiration of a license the Commissioner shall send an application for renewal by first class mail to the license holder at the address of the license holder on file with the Commissioner. An applicant for renewal under this section shall file the application for renewal prior to the date of expiration and shall pay the required renewal fee as provided in section 105 of this chapter.
- 102.3 The license holder shall notify the Commissioner in writing of any change of home or business address within thirty (30) days of the change of address.
- 102.4 The failure of the license holder to receive the notice required under subsection 102.2 does not relieve the license holder of the responsibility for renewing the license.
- 102.5 A producer who fails to renew a license prior to the expiration date may renew the license within thirty (30) days after expiration upon paying the required late fee. Upon renewal, the producer shall be deemed to have possessed a valid license during the period between the expiration of the license and the renewal thereof.
- 102.6 If a producer fails to renew a license within thirty (30) days after expiration of the license, the license shall be considered to have lapsed on the date of expiration, and the license holder shall be required to apply for reinstatement pursuant to section 103 of this chapter.

### **103 REINSTATEMENT OF AN EXPIRED LICENSE**

- 103.1 This section shall apply to an applicant for reinstatement of an expired license issued under this chapter.
- 103.2 An applicant for reinstatement under this section shall file an application with the Department on the prescribed form and shall pay the required reinstatement fee as provided in section 105 of this chapter.
- 103.3 An applicant for reinstatement under this section shall demonstrate fitness to resume practice by submitting evidence satisfactory to the Commissioner that the applicant has the competency and knowledge of District law necessary to resume transacting insurance business and that such resumption will not be detrimental to the public interest or the integrity of the insurance profession.
- 103.4 In making a determination pursuant to subsection 103.3, the Commissioner shall consider the following:
- (a) The length of time that the applicant has transacted insurance business in the District or in another state or country;

(b) The length of time after expiration of the applicant's license that the applicant was not transacting insurance business either in the District or in another state or country;

(c) The violation of any laws by the applicant;

(d) The applicant's present character; and

(e) The applicant's present qualifications and competency to transact insurance business.

103.5 The Commissioner may require an applicant to complete certain educational or training requirements, in addition to any continuing education requirements, prior to or after reinstatement, to ensure that the applicant is competent to transact insurance business.

103.6 The Commissioner shall not reinstate the license of a producer who fails to apply for reinstatement of a license within one (1) year after the license expires. The person may become licensed by meeting the requirements then in existence for obtaining an initial license.

#### **104 REINSTATEMENT AFTER SUSPENSION OR REVOCATION**

104.1 A person whose license to do business as a producer has been revoked, or whose application for reinstatement has been denied shall be ineligible to apply for reinstatement for a period of three (3) years from the date of the revocation or denial unless otherwise provided in the Commissioner's order of revocation or denial.

104.2 An applicant for reinstatement under this section shall file an application with the Department on the prescribed form and shall pay the required reinstatement fee.

104.3 An applicant for reinstatement shall demonstrate fitness to transact insurance business by submitting evidence satisfactory to the Commissioner that the applicant has the moral qualifications, competency, and knowledge of District law necessary to resume practice, and will not be detrimental to the public interest or the integrity of the insurance profession.

104.4 In making a determination pursuant to this section, the Commissioner may consider, among other factors, the following:

(a) The nature and circumstances of the conduct for which the applicant's license was suspended or revoked;

(b) The applicant's recognition of the seriousness of any misconduct;

- (c) The applicant's conduct since the suspension or revocation, including steps taken by the applicant to remedy prior misconduct and prevent future misconduct;
- (d) The applicant's present character;
- (e) The applicant's present qualifications and competency to practice in the insurance profession; and
- (f) Whether the applicant has paid all fines.

104.5 The Commissioner may require an applicant to complete specific educational or training requirements, in addition to any continuing education requirement, prior to or after reinstatement, to ensure that the applicant is competent to transact insurance business.

#### **105 PRODUCER LICENSING FEES**

105.1 The following fees shall apply to Producer initial applications, renewal applications, and reinstatement applications:

(a) One Hundred dollars (\$100) for qualifications in one or more of the following lines of insurance as described in D.C. Official Code § 31-1031.8(a):

- (1) life;
- (2) accident and health and sickness;
- (3) variable life and variable annuity products; and
- (4) credit;

(b) One Hundred dollars (\$100) for qualifications in one or more of the following lines of insurance as described in D.C. Official Code § 31-1031.8(a):

- (1) property;
- (2) casualty;
- (3) personal lines;
- (4) credit; and
- (5) bail bonds;

(c) Two-Hundred dollars (\$200) for qualification as a surplus lines producer;

(d) The renewal fee is the same as the initial license fee; and if applicable, a late fee is double the initial fee; and

(e) The reinstatement fee of each license is double the initial fee.

#### **106 CONTINUING EDUCATION**

- 106.1 Except as otherwise provided in this section, a producer seeking to renew a license shall certify to the Commissioner that he or she has successfully completed at least sixteen (16) credit hours of approved continuing education within the two (2) year calendar period preceding the expiration of the license.
- 106.2 A producer seeking to renew a license for more than one (1) line of authority shall complete at least twenty-four (24) credit hours of approved continuing education within the two (2) calendar year period preceding the expiration of the license, including at least six (6) credit hours for each line of authority, and two (2) hours of ethics.
- 106.3 An applicant for the renewal of a license as a producer shall complete all continuing education requirements by December 31 of each even numbered year.
- 106.4 This section shall not apply to an applicant seeking the first renewal of a license granted by examination, or an applicant who has been granted a license during the second year of the two (2) year period preceding the date the license expires.
- 106.5 Not less than sixty (60) days prior to the date set forth in subsection 106.3, the Commissioner shall notify each licensee who has not obtained the number of continuing education credit hours needed to comply with this section. Such notice shall be mailed to the licensee at the last known address for the licensee that is on file with the Commissioner.
- 106.6 An applicant for the renewal of a license as a producer shall prove the completion of the required continuing education credits by submitting, on a form prescribed by the Commissioner, the following:
- (a) The name and address of the sponsor of the program;
  - (b) The course title, and place where the course was taught;
  - (c) The name of the instructor;
  - (d) The dates on which the applicant attended the program;
  - (e) The hours of credit claimed; and
  - (f) Verification of completion by signature or stamp of the sponsor.
- 106.7 The Commissioner shall issue a decision approving or denying approval of a course not later than thirty (30) days following the receipt of the application for approval.

106.8 The Commissioner shall approve only courses, which impart substantive and procedural knowledge relating to the insurance field. The following courses may not be approved:

- (a) A course approved for prelicensing education;
- (b) A course designed to prepare a person for a license examination;
- (c) A course in mechanical, office or business skills, including typing, speed reading, or the use of calculators or other machines or equipment;
- (d) A course in sales promotion;
- (e) A course in motivation, salesmanship, stress management, time management, psychology, communication, or writing; or
- (f) A course relating to office management, client relations, or improving the operation of the licensee's business.

106.9 The Commissioner shall determine the number of credit hours to be assigned to each course. In general, one credit hour shall be assigned for each fifty (50) minutes of classroom instruction. The number of approved credit hours shall not include time spent on meals, breaks, or other unrelated activities.

106.10 Courses necessary to obtain the following nationally recognized designations shall count as sixteen (16) credit hours upon successful completion of the national examination for each part:

- (a) Accredited Advisor in Insurance (AAI);
- (b) Associate in Claims (AIC);
- (c) Associate in Loss Control Management (ALCM);
- (d) Associate in Risk Management (ARM);
- (e) Associate in Underwriting (AU);
- (f) Certified Employee Benefits Specialist (CEBS);
- (g) Certified Insurance Counselor (CIC);
- (h) Chartered Financial Consultant (ChFC);
- (i) Chartered Life Underwriter (CLU);

- (j) Chartered Property Casualty Underwriter (CPCU)
  - (k) Fellow Life Management Institute (FLMI)
  - (l) General Insurance (INS);
  - (m) Life Underwriter Training Fellow, 26 weeks (LUTCF); and
  - (n) Other designations approved by the Commissioner.
- 106.11 The Commissioner may grant approval for courses approved by the insurance regulatory agency in another state provided the course meets the requirement of subsection 106.8, or the state accords reciprocity in accordance with the Midwest Zone Declaration Regarding Continuing Education Course Approval.
- 106.12 A license holder shall attend a course in order to receive credit. A licensee shall receive credit for the number of hours approved for a course only upon the successful completion of an approved course.
- 106.13 Instructors shall earn one (1) hour of continuing education credit for each one (1) approved hour of instruction of an approved course.
- 106.14 Licensees and instructors may not earn credit for attending or instructing at a subsequent offering of the same course for each biennium after attending or teaching the course.
- 106.15 Excess credit hours accumulated during any biennium may not be carried forward to the next biennium.
- 106.16 A licensee shall receive full certification credit for passing a recognized national insurance examination.
- 106.17 Except as provided in subsection 106.18, course examinations are not required for continuing education credit, unless the sponsor requires an examination.
- 106.18 A program of independent study shall qualify for continuing education credit only if there is a sponsor supervised examination. Each program of independent study shall be assigned credit hours, which shall be awarded upon the passing of the supervised examination.
- 106.19 A licensee may not satisfy more than one half (1/2) of his or her continuing education requirement for a particular licensure period with a course or courses sponsored by an insurance company.
- 106.20 An applicant for the renewal of a license as a producer may request an exemption from the continuing education requirement if the applicant is:

- (a) 65 years of age or older;
- (b) Has been continuously licensed for at least twenty-five (25) years; and
- (c) The applicant either:
  - (1) Holds one of the designations listed in subsection 106.10; or
  - (2) Is the majority shareholder of a corporation or the partner of a partnership, which holds a license as a producer, and neither solicits insurance products nor actively participates in the day-to-day operations of the corporation or partnership.
- (d) The requirements of paragraph (c) of this subsection may be waived at the discretion of the Commissioner.

- 106.21 An applicant for the renewal of a producer's license who fails to complete the continuing education requirements before the expiration date of the license may renew the license within thirty (30) days after expiration by submitting proof pursuant to either subsection 106.1 or subsection 106.2 and paying the required late fee.
- 106.22 An applicant for reinstatement of a suspended or revoked producer's license which was suspended or revoked on or after the effective date of these regulations shall submit proof pursuant to either subsection 106.1 or subsection 106.2 of having completed all continuing education credits that the applicant would have been required to take per licensing cycle if the applicant's license had not been revoked or suspended.
- 106.23 Upon submitting proof and paying the additional late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.
- 106.24 Textbooks are not required for continuing education credit. If textbooks are not provided, students shall be provided with a syllabus containing the following:
- (a) Course title;
  - (b) Times and dates of the course offering;
  - (c) Names and addresses or telephone numbers of the course coordinator;
  - (d) A detailed outline of the subject matter being covered; and

(e) Any other information the sponsor feels may benefit the students.

106.25 Sponsors, course coordinators, and instructors shall ensure that textbooks and syllabi contain accurate and current information relating to the subject matter being taught.

106.26 The requirements of this section may be waived by the Commissioner for good cause shown. "Good cause" includes a long-term illness or incapacity, active duty in the armed services of the United States outside of the Washington Metropolitan Area, or any other emergency deemed sufficient by the Commissioner. Requests for a waiver shall be made in writing and shall be submitted to the Commissioner not later than ninety (90) days prior to the end of the license period. The Commissioner shall grant or deny a request for a waiver within thirty (30) days of the receipt of the request. A waiver granted pursuant to this subsection shall be effective only for that particular license period.

### **107 APPROVAL OF INSURANCE EDUCATION PROGRAMS AND PROVIDERS**

107.1 Professional or proprietary schools, insurance companies and other organizations that establish programs for the teaching of insurance courses to satisfy the prelicensing or continuing education requirements under this chapter shall, prior to conducting such courses, obtain approval in accordance with this section.

107.2 Except as provided in subsection 106.4, an applicant for approval of an insurance education program shall, on a form prescribed by the Commissioner, furnish the following information:

(a) The name of the program and the address of the permanent program office;

(b) The name and address of the sponsoring organization if any;

(c) The name of the program director or directors, and all professional licenses held by each individual;

(d) Whether the program will teach prelicensing education courses, continuing education courses, or both;

(e) The address of any permanent classroom or classrooms to be used by the program; and

(f) Any other information that may be required by the Commissioner to determine whether the program meets the requirements for approval.

107.3 An applicant for approval of an insurance education program shall:

(a) Comply with all federal and District laws, including laws regarding discrimination based on sex, race, religion, age, physical disability, sexual orientation, or national origin; and

(b) Certify that all instructors are experienced and qualified for the courses being taught, and satisfy at least one of the following:

(1) Have been engaged in the insurance business, or has served as an insurance education instructor, for at least three (3) years;

(2) Have been licensed as a producer for the past five (5) years and has sufficient knowledge of the subject matter, which he or she will be teaching;

(3) Are a member of the bar of any state or the District, and is engaged in an area of the law related to insurance; or

(4) Are a certified public accountant licensed in any state or the District, and is engaged in a practice related to insurance.

107.4 An accredited institution of higher education such as a college, university, community or junior college, seeking initial approval or re-approval of insurance courses to satisfy the requirements for prelicensing or continuing education set forth in this chapter shall submit its application for approval on a form prescribed by the Commissioner. The institution shall provide the following information:

(a) Name of the department within the institution, which is offering the courses;

(b) Course numbers and titles;

(c) Method of instruction for each course;

(d) A detailed outline for each course, with the specific number of classroom hours allocated for each topic described in Appendices 1, 2, 3, and 4;

(e) A current class catalog for the institution; and

(f) Any other information that may be required by the Commissioner to determine whether the courses meet the requirements for approval.

107.5 An inspection of the program office and any permanent classroom facility, or an investigation of the program provider and its instructors, may be conducted, with or without advance notice, by the Commissioner or his or her representative. Such inspection or investigation shall be at the expense of the program provider, and may be based on any of the following:

- (a) Information obtained from state, federal or international agencies, and other interested parties;
  - (b) Information obtained as the result of a public hearing held by the Commissioner;
  - (c) Information furnished by an applicant seeking licensure as a producer; or
  - (d) Any information the Commissioner deems relevant and sufficient to warrant such inspection or investigation.
- 107.6 If the application is in proper form and the applicable requirements of this section are met, the Commissioner shall issue a certificate of approval, which shall contain:
- (a) An indication as to whether the programs or courses are approved for prelicensing education, continuing education or both; and
  - (b) The effective date and expiration date of the approval.
- 107.7 The Commissioner shall issue a decision regarding the approval, or denial of approval, of an insurance education program within sixty (60) days of the receipt of a completed application. An approval granted pursuant to this section shall expire two (2) years from the date of issuance.
- 107.8 Within ten (10) days of a change to an approved course, an insurance education provider shall notify the Commissioner of such change.
- 107.9 Each approved insurance education program shall use knowledgeable and competent instructors to teach all courses. An instructor shall not have had his or her District insurance license revoked and shall, in the opinion of the Commissioner, be otherwise of good character and reputation.
- 107.10 An approved insurance education program shall issue to each student who has successfully completed a prelicensing education course a certificate consistent with the form contained in Appendix 5.
- 107.11 Each approved insurance education program shall maintain the following items for three (3) years:
- (a) The records of each student, including the name (s) of the course or courses taken;
  - (b) Proof that the final examination for the course, if required, was passed; and

(c) Copies of all final examinations administered, and education certificates issued to students completing the program.

107.12 The director of an approved education program shall provide the Commissioner with information regarding the date, time, and place of any scheduled prelicensing or continuing education course to permit class to be monitored by the Commissioner or his or her representative.

107.13 A sponsor may not advertise a course as having been approved unless the Commissioner has approved the course in writing. A sponsor shall prominently display the number of hours for which a course has been approved on any advertisements for the course. If an advertisement is published before course approval, or the course being sponsored is not eligible for approval, a statement to that effect shall be included in the advertisement.

107.14 Advertising may not be deceptive or misleading. Upon written request by a sponsor, the Commissioner shall grant permission to the sponsor to use the term "approval pending" if the:

(a) Term "approval pending" is clearly visible in any advertisement of the course; and

(b) Course has been submitted to the Commissioner for approval in accordance with section 107.

107.15 Sponsors shall provide that fees for courses are reasonable and clearly identified in any advertisement for the course. If a course is cancelled for any reason, the sponsor shall refund all fees within thirty (30) days of the cancellation, or, at the request of the license holder, shall transfer the fee to another course offered by the sponsor. A sponsor shall have a refund policy, which addresses a license holder's cancellation or failure to complete a course.

#### **108 REVOCATION OR SUSPENSION OF APPROVAL OF AN INSURANCE EDUCATION PROGRAM**

108.1 Any insurance education program or sponsor of a program may be denied approval for failure to meet the requirements in this section.

108.2 Any denial of program approval, or any proposal to revoke or suspend approval, shall be in writing, and shall advise the applicant of his or her right to a hearing. Nothing in this section shall prohibit the rejection and return of applications for correction of ministerial errors.

108.3 The Commissioner may suspend or revoke the approval of an insurance education program for any of the following reasons:

- (a) The failure to maintain any requirement set forth in this section;
  - (b) The failure to advise the Department promptly of any change in information initially submitted in the application during the period of approval including, but not limited to, change of director, school address, place or time of scheduled classes and instructors;
  - (c) Obtaining an approval by fraud or misrepresentation;
  - (d) The failure to conduct any classes for a period of 12 months; or
  - (e) For continuing education programs only, the failure to report to the Department the students' continuing education credits.
- 108.4 Any school whose approval has been suspended or revoked shall turn over its education certificates to the Commissioner within fourteen (14) days.
- 108.5 As an alternative to suspension or revocation of approval, the Commissioner may place any program on probation with appropriate conditions or impose monetary penalties not to exceed \$ 1,000 for the first violation and \$ 2,000 for each succeeding violation.
- 108.6 No insurance education program or director whose approval has been revoked may reapply for approval for a period of five years.

## **APPENDIX 1 - CASUALTY INSURANCE COURSE REQUIREMENTS**

### **SECTION A**

#### **I. PRINCIPLES OF INSURANCE -- 2 Hours**

- A. Nature of risk
- B. Risk management
- C. Insurable and noninsurable risk
- D. Pooling concept-- law of large numbers
- E. Government as insurer
- F. Forms of ownership
- G. Marketing systems
- H. Competition in the industry
- I. Functions of insurers
- J. Reinsurance

#### **II. General District of Columbia Laws -- 3 Hours**

- A. Broad powers and duties of the Commissioner of Insurance
- B. Knowledge of administrative action process, including hearings and penalties

- C. Purpose of licensing, including procedures and who must be licensed
- D. Record keeping and changes in agent status, including change of address
- E. Agent license expiration, revocation, suspension, and limitation
- F. General regulations regarding misrepresentation, knowledge of acts of agent, rebating
- G. Regulation of specific insurance contract changes regarding cancellation, nonrenewal, notice of proof of loss, and payment of claims
- H. Unfair claims methods and practices--timely payment of claims
- I. Fair rating practices
- J. Home solicitation requirements
- K. Written disclosure of fees other than commissions

### III. Ethics -- 3 Hours

- A. Fiduciary duties, and responsibilities
- B. Conflict of interest
- C. Ethical marketing practices, including fair and ethical treatment of policyholders
- D. Appropriate claims practices
- E. Suitability of product client
- F. Social responsibility of an insurance agent
- G. Agent/company relationships
- H. Maintaining appropriate insurance expertise
- I. Education of policyholders
- J. Understanding of client needs

### SECTION B

### IV. Policies, Terms, and Concepts -- 6 Hours

- A. Types of policies, bonds, and related terms
  - 1. General liability
    - a. Owners, landlords, and tenants liability
    - b. Manufacturers and contractors liability
    - c. Products and completed operations liability
    - d. Contractual liability
    - e. Commercial general liability
    - f. Premises/operations liability
    - g. Owners and contractors protective liability
  - 2. Automobile Insurance - personal & family auto and business & commercial auto
    - a. Physical damage (collision and comprehensive)
    - b. Uninsured motorists
    - c. Underinsured motorists
    - d. Named insureds
    - e. Insureds
    - f. Owned automobile
    - g. Nonowned automobile
    - h. Temporary substitute auto

3. Workers' compensation
4. Professional liability
5. Umbrella/excess liability

B. Insurance terms and related concepts

1. Risks
2. Hazards
3. Indemnity
4. Insurable interest
5. Actual cash value
6. Negligence
7. Liability
8. Accident
9. Occurrence
10. Burglary
11. Robbery
12. Theft
13. Mysterious disappearance
14. Fidelity (employee dishonesty)
15. Warranties
16. Representations
17. Concealment
18. Bodily injury liability
19. Property damage liability
20. Personal injury liability
21. Limits of liability
22. Deductibles
23. Incidental contracts
24. Binders

C. Policy provisions

1. Declarations
2. Insuring Agreement
3. Conditions
4. Exclusions
5. Definition of the Insured
6. Duties of the Insured
7. Cancellation and Nonrenewal Provisions
8. Supplementary Payment (Additional Coverages)
9. Proof of Loss
10. Notice of Claim
11. Arbitration
12. Pro Rata Liability (Other Insurance)
13. Subrogation
14. Compliance with Provisions of Fair Credit Reporting Act
15. Claims Made Policy Form

16. Salvage
17. Consent to Settle a Loss
18. Limitations

**V. District of Columbia Insurance Law -- 6 Hours**

- A. General rate standards
- B. Prohibited classifications of risks
- C. Surplus lines
  1. Definition
  2. Prohibitions and restrictions
  3. Responsibilities of agents and brokers
- D. Oral contracts
- E. Automobile liability
  1. Financial responsibility
    - a. Definitions
    - b. Persons required to show proof
  2. Required coverages and prohibited exclusions Uninsured motorist
  3. Cancellation or nonrenewal
  4. Responsibility for minors operating motor vehicles
  5. District of Columbia Automobile Insurance Plan (DCAIP)
- F. Worker's compensation
  1. Purpose
  2. Definitions

**APPENDIX 2 - PROPERTY INSURANCE COURSE REQUIREMENTS****SECTION A****I. Principles of Insurance -- 2 Hours**

- A. Nature of risk
- B. Risk management
- C. Insurance and noninsurable risk
- D. Pooling concept--law of large numbers
- E. Government as insurer
- F. Forms of ownership
- G. Marketing systems
- H. Competition in the industry
- I. Functions of insurers
- J. Reinsurance

**II. General District of Columbia Insurance Laws -- 3 Hours**

- A. Duties and powers of Insurance Commissioner--statutory and rule-making
- B. Knowledge of administrative action process, including hearings and penalties
- C. Purpose of licensing, including procedures and who must be licensed
- D. Record keeping and changes in agent status, including change of address

- E. Agent license expiration, revocation, suspension, and limitation
- F. General regulations regarding misrepresentation, knowledge of acts of agent, rebating
- G. Regulation of specific insurance contract changes regarding cancellation, nonrenewal, notice of proof of loss, and payment of claims
- H. Unfair claims methods and practices--timely payment of claims
- I. Fair rating practices

### III. Ethics -- 3 Hours

- A. Fiduciary duties, and responsibilities
- B. Conflict of interest
- C. Ethical marketing practices, including fair and ethical treatment of policyholders
- D. Appropriate claims practices
- E. Suitability of product to client
- F. Social responsibility of insurance agent
- G. Agent/company relationships
- H. Maintaining appropriate insurance expertise
- I. Education of policyholders
- J. Understanding of client needs

## SECTION B

### IV. Policies, Terms, and Concepts -- 6 Hours

- A. Types of policies
  - 1. Standard fire
  - 2. Personal lines
    - a. Dwelling and contents
    - b. CPL (comprehensive personal liability)
    - c. Homeowners
  - 3. Commercial
    - a. General property
    - b. Special multi-peril
    - c. Business owner policy
    - d. Business interruption
      - (i) Gross earnings
      - (ii) Earnings
      - (iii) Extra expense
  - 4. Inland marine
    - a. Personal floaters
    - b. Commercial floaters
  - 5. Others
    - a. Flood
    - b. Watercraft
- B. Insurance terms and related concepts
  - 1. Insurance
  - 2. Insurable interest

3. Risk
  4. Hazard
  5. Peril
    - a. Specified (named) perils
      - (i) Standard fire
      - (ii) Extended coverage
      - (iii) Broad form
    - b. All-risk
  6. Loss
    - a. Direct
    - b. Indirect
  7. Proximate cause
  8. Deductible
  9. Indemnity
  10. Actual cash value
  11. Replacement cost
  12. Limits of liability
  13. Coinsurance
  14. Pair and set clause
  15. Extensions of coverage
  16. Additional coverages
  17. Accident
  18. Occurrence
  19. Cancellation
  20. Nonrenewal
  21. Vacancy and unoccupancy
  22. Right of Salvage
  23. Abandonment
  24. Liability
  25. Negligence
- C. Policy provisions and contract law
1. Declarations
  2. Insuring agreement
  3. Conditions
  4. Exclusions
  5. Definition of the insured
  6. Duties of the insured
  7. Obligations of the insurance company
  8. Mortgagee rights
  9. Proof of loss
  10. Notice of claim
  11. Appraisal
  12. Pro rata liability (other insurance)
  13. Assignment
  14. Subrogation
  15. Arbitration

16. Elements of a contract
17. Warranties, representations, and concealment
18. Binders
19. Sources of insurability information
20. Fair Credit Reporting Act

#### **V. District of Columbia Insurance Law -- 6 Hours**

- A. General rate standards - use and file provisions
- B. Prohibited classification of risks
- C. Surplus lines
  1. Definitions
  2. Prohibitions and restrictions
  3. Responsibilities of agents and brokers
- D. Oral contracts
- E. Content of forms
- F. Definition of loss
- G. Insurance Placement Facility/Fair Plan

### **APPENDIX 3 - LIFE INSURANCE COURSE REQUIREMENTS**

#### **SECTION A**

#### **I. Principles of Insurance -- 2 Hours**

- A. Nature of risk
- B. Risk management
- C. Insurable and noninsurable risk
- D. Pooling concept--law of large numbers
- E. Government as insurer
- F. Forms of ownership
- G. Marketing systems
- H. Competition in the industry
- I. Functions of insurers
- J. Reinsurance

#### **II. General District of Columbia Insurance Laws -- 3 Hours**

- A. Duties and powers of Insurance Commissioner--statutory and rule-making
- B. Knowledge of administrative action process, including hearings and penalties
- C. Purpose of licensing, including procedures and who must be licensed
- D. Record keeping and changes in agent status, including change of address
- E. Agent license expiration, revocation, suspension, and limitation
- F. General regulations regarding misrepresentation, knowledge of acts of agent, rebating
- G. Regulation of specific insurance contract changes regarding cancellation, nonrenewal, notice of proof of loss, payment of claims
- H. Unfair claims methods and practices--timely payment of claims
- I. Fair rating practices

**III. Ethics -- 3 Hours**

- A. Fiduciary duties, and responsibilities
- B. Conflict of interest
- C. Ethical marketing practices, including fair and ethical treatment of policyholders
- D. Appropriate claims practices
- E. Suitability of life products to clients including sales to the elderly
- F. Social responsibility of insurance agent
- G. Agent/company relationships
- H. Maintaining appropriate insurance expertise
- I. Education of policyholders
- J. Understanding of client needs

**SECTION B****IV. Policies, Terms and Concepts -- 6 Hours**

- A. Types of policies
  - 1. Traditional whole life products
    - a. Ordinary (straight) life
    - b. Limited-pay and single-premium life
    - c. Modified and graded premium whole life
    - d. Adjustable life
  - 2. Interest-sensitive whole life products
    - a. Universal like
    - b. Variable whole life
    - c. Variable universal life
  - 3. Term life
    - a. Level, decreasing, and increasing term
    - b. Renewal term
    - c. Convertible term
  - 4. Annuities
    - a. Single, level, and flexible premium
    - b. Immediate and deferred
    - c. Fixed and variable--requirement of security license
  - 5. Endowment
  - 6. Combination plans
    - a. Family policy
    - b. Family income policy
    - c. Family maintenance policy
- B. Policy riders, provisions, options, and exclusions
  - 1. Policy riders
    - a. Waiver of premium
    - b. Guaranteed insurability
    - c. Payor benefit
    - d. Accidental death and/or accidental death and dismemberment
    - e. Term riders

- f. Other insureds (e.g., spouse, children, nonfamily)
- 2. Policy provisions and options
  - a. Entire contract
  - b. Insuring clause
  - c. Free look
  - d. Consideration clause
  - e. Owner's rights
  - f. Primary and contingent beneficiaries
  - g. Revocable and irrevocable beneficiaries
  - h. Change of beneficiary
  - i. Modes of premium payment
  - j. Grace period
  - k. Automatic premium loan
  - l. Reinstatement
  - m. Policy loan
  - n. Nonforfeiture options
  - o. Dividends and dividend options
  - p. Incontestability
  - q. Assignment
  - r. Suicide
  - s. Misstatement of age
  - t. Settlement options
  - u. Conversion options (individual policy)
- 3. Policy exclusions
- C. Completing the application, underwriting, and delivering the policy
  - 1. Completing the application
    - a. Requiring signatures
    - b. Changes in the application
    - c. Consequences of incomplete applications
    - d. Warranties and representations
    - e. Collecting the initial premium and issuing the receipt
  - 2. Underwriting
    - a. Insurable interest
    - b. Medical; information and consumer reports
    - c. Fair Credit Reporting Act
    - d. Risk classification
  - 3. Delivering the policy
    - a. When coverage begins
    - b. Obtaining a statement of good health
    - c. Explaining the policy and its provisions, riders, exclusions, and ratings
- D. Taxes, Retirement, and Other Insurance Concepts
  - 1. Third-party ownership
  - 2. Group life insurance
  - 3. Retirement plans
  - 4. Business insurance (e.g., key employee, buy sell agreement, split-dollar, etc.)
  - 5. Social security benefits and taxes

6. Tax treatment of insurance premiums, and proceeds

**V. District of Columbia Insurance Law -- 6 Hours**

- A. Policy provisions
  - 1. Grace period
  - 2. Separate benefits
  - 3. Incontestability
  - 4. Misstatement of age
  - 5. Assignment of rights
  - 6. Designation of beneficiaries
  - 7. Variable contracts
- B. Marketing practices
  - 1. Bonuses
  - 2. Replacement of policies
  - 3. Disclosure requirements
  - 4. Suitability
  - 5. Combination sales
  - 6. Record keeping

**APPENDIX 4 - ACCIDENT AND HEALTH INSURANCE COURSE REQUIREMENTS**

**SECTION A**

**I. Principles of Insurance -- 2 Hours**

- A. Nature of risk
- B. Risk management
- C. Insurable and noninsurable risk
- D. Pooling concept--law of large numbers
- E. Government as insurer
- F. Forms of ownership
- G. Marketing systems
- H. Competition in the industry
- I. Functions of insurers
- J. Reinsurance

**II. General District of Columbia Insurance Law -- 3 Hours**

- A. Duties and powers of Insurance Commissioner--statutory and rule-making
- B. Knowledge of administrative action process, including hearings and penalties
- C. Purpose of licensing, including procedures and who must be licensed
- D. Record keeping and changes in agent status, including change of address
- E. Agent license expiration, revocation, suspension, and limitation
- F. General regulations regarding misrepresentation, knowledge of acts of agent, rebating
- G. Regulation of specific insurance contract changes regarding cancellation, nonrenewal, notice of proof of loss, and payment of claims

- H. Unfair claims methods and practices--timely payment of claims
- I. Fair rating practices

**III. Ethics -- 3 Hours**

- A. Fiduciary duties, and responsibilities
- B. Conflict of interest
- C. Ethical marketing practices, including fair and ethical treatment of policyholders
- D. Appropriate claims practices
- E. Suitability of accident and health products to clients including specifically sales to the elderly
- F. Social responsibility of insurance agent
- G. Agent/company relationships
- H. Maintaining appropriate Insurance expertise
- I. Education of policyholders
- J. Understanding of client needs

**SECTION B****IV. Policies, Terms, and Concepts -- 6 Hours**

- A. Types of policies
  - 1. Disability income
    - a. Individual disability income policy
    - b. Business overhead expense policy
    - c. Business health insurance
  - 2. Accidental death and dismemberment
  - 3. Medical expense insurance
    - a. Basic hospital, medical, and surgical policies
    - b. Major medical policies
    - c. Comprehensive major medical policies
    - d. Health Maintenance Organizations (HMO)
    - e. Multiple Employer Trusts (MET)
    - f. Service organizations (Blue Plans)
  - 4. Medicare supplement policies
  - 5. Group insurance
    - a. Group conversion
    - b. Differences between individual and group contracts
    - c. General concepts
- B. Policy provisions, clauses, and riders
  - 1. Mandatory provisions
    - a. Entire contract
    - b. Time limit on certain defenses (incontestable)
    - c. Grace period
    - d. Reinstatement
    - e. Notice of claim
    - f. Claim forms

- g. Proof of loss
- h. Time of payment of claims
- i. Payment of claims
- j. Physical examination and autopsy
- k. Legal actions
- l. Change of beneficiary
- 2. Optional provisions
  - a. Change of occupation
  - b. Misstatement of age
  - c. Illegal occupation
- 3. Other provisions and clauses
  - a. Insuring clause
  - b. Free look (10-day, 20-day, etc.)
  - c. Consideration clause
  - d. Probationary (waiting) period
  - e. Elimination (waiting) period
  - f. Waiver of premium
  - g. Exclusions
  - h. Pre-existing conditions
  - i. Recurrent disability
  - j. Coinsurance
  - k. Deductibles
- 4. Riders
  - a. Impairment rider
  - b. Guaranteed insurability rider
  - c. Multiple indemnity rider (double, triple)
- 5. Rights of renewability
  - a. Noncancellable
  - b. Cancelable
  - c. Guaranteed renewable
  - d. Conditionally renewable
  - e. Optionally renewable
  - f. Period of time
- C. Social insurance
  - 1. Medicare
  - 2. Medicaid
  - 3. Social security benefits
- D. Other insurance concepts
  - 1. Total, partial, and residual disability
  - 2. Owner's rights
  - 3. Dependent children benefits
  - 4. Primary and contingent beneficiaries
  - 5. Modes of premium payments (annually, semiannual, etc.)
  - 6. Nonduplication and coordination of benefits (e.g., primary vs. excess)
  - 7. Occupational vs. Nonoccupational

8. Tax treatment of premiums and proceeds of insurance contracts (e.g., disability income, and medical expense, etc...)
- E. Field underwriting procedures
  1. Completing application and obtaining necessary signatures
  2. Explaining sources of insurability information (e.g., MIB Report, Fair Credit Reporting Act, etc.)
  3. Upon payment of initial premium, giving prospect conditional receipt, and explaining the effect of that receipt (e.g., medical exam, etc...)
  4. Submitting application and initial premium to company for underwriting
  5. Assuring delivery of policy to client
  6. Explaining policy and its provisions, riders, exclusions, and ratings to clients
  7. In cases where initial premium did not accompany application, obtaining signed statement of continued good health, and obtaining premium for transmittal
  8. Contract law
    - a. Requirements of a contract
    - b. Insurable interest
    - c. Warranties and representations

#### **V. District of Columbia Insurance Law -- 6 Hours**

- A. General policy provisions
  1. Right of return
  2. Right of insurer to contest
  3. Pre-existing conditions
  4. Application process
  5. Grace periods
- B. Mandated benefits
  1. Handicapped children
  2. Newborn children
  3. Chiropractors services
  4. Alcoholism, drug abuse, and mental and nervous disorders
  5. Home health care
  6. Skilled nursing care
  7. Kidney disease treatment
  8. Diabetes
  9. Maternity benefits
- C. Riders and endorsements
- D. Marketing methods and practices
  1. Advertising
  2. Suitability
  3. Outline of coverage
  4. Replacement
  5. Medicare supplement policies
  6. Nursing home policies
  7. Continuation and conversion
  8. Cancer insurance and other dread disease

E. Health Insurance Risk-Sharing Plan

**Appendix 5**

**CERTIFICATE OF PRELICENSING EDUCATION**

I hereby certify that \_\_\_ has completed a prelicensing educational course which complies with the requirements in Chapter 1 of Title 26 of the DCMR for the insurance lines of (life & health) (property & casualty). The last day of class/studies for section B of this particular course was (date). I have verified the identification of this applicant by using:

- \_\_\_ District of Columbia driver's license;
- \_\_\_ District of Columbia identification card; or
- \_\_\_ Other (please describe) \_\_\_

Authorized Representative

Name of Program

Date

Persons desiring to comment on the emergency and proposed rulemaking may submit their comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be addressed to Leslie Johnson, Hearing Officer, Department of Insurance and Securities Regulation, 810 First Street, N.E., Room 701, Washington, DC 20002. Copies of the proposed rules may be obtained from the Department at the above address.