

RULES AND REGULATIONS OF THE ADMINISTRATOR

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RULES AND REGULATIONS OF THE ADMINISTRATOR

CHAPTER 1

ORGANIZATION, LICENSING, RECORDS

Section 1. Authority.

(a) Generally, these Rules and Regulations (herein after referred to as the "Rules") are promulgated pursuant to W.S. 16-3-102(a)(i). Some Chapters are also promulgated pursuant to other, more specific statutory authority, as specified in such Chapter.

(b) The Administrator may employ a Deputy Administrator. If the Office of the Administrator is vacant or if the Administrator is absent or unable to act, the Deputy Administrator shall be the Acting Administrator.

Section 2. Definitions.

(a) For the purposes of the Code and these Rules, Chapters 1 through 4, the following definitions apply:

(i) "Actuarial method" means the allocating of payments made on a debt between principal and loan finance charge or credit service charge pursuant to which:

(A) With respect to transactions other than precomputed, payment is applied first to the accumulated loan finance charge or credit service charge and the balance is applied to the unpaid principal.

(B) With respect to precomputed transactions entered into on or after May 25, 1979, and payable according to their original terms in more than sixty-one (61) monthly installments, the unearned portion of the loan finance charge or credit service charge is, at the option of the creditor, either:

(I) That portion which is applicable to all fully unexpired computational periods as originally scheduled, or if deferred, as deferred, which follow the date of prepayment. For this purpose the applicable charge is the total of that which would have been made for each such period, had the consumer loan or consumer credit sale not been precomputed, by applying to unpaid balances of principal the annual percentage rate previously stated to the debtor pursuant to the provisions of the Code on disclosure based on the assumption that all payments were made as originally scheduled, or if deferred, as deferred. The creditor, at his option, may round the annual percentage rate to the nearest one quarter of one percent (.25%) if such procedure is not consistently used to obtain greater yield than would otherwise be permitted; or

(II) The total loan finance charge or credit service charge minus the earned loan finance charge or credit service charge. The earned loan finance charge or credit service charge shall be determined by applying the annual percentage rate previously stated to the debtor pursuant to the provisions of the Code on disclosure to the actual unpaid balances for the actual time the balances were unpaid up to the date of prepayment. If a delinquency or deferral charge was collected, it shall be treated as a payment.

(C) The option referred to in paragraph (i)(B)(I) above must be taken and disclosed to the debtor at the time the transaction is entered into. If disclosure is not clearly given as to the option to be used, the creditor will be deemed to have chosen that option discussed in paragraph (i)(B)(II) above.

(ii) "Administrator" means the State Banking Commissioner of the state of Wyoming.

(iii) "Code" refers to the Wyoming Uniform Consumer Credit Code Act as cited in W.S. 40-14-101 *et seq.*

(iv) "Consumer" means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under Reg. Z Sections 226.15 and 226.23 the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest. Unless the context indicates otherwise, credit shall be construed to mean "consumer credit," loan to mean "consumer loan," lease to mean "consumer lease," and transaction to mean "consumer credit transaction."

(v) "Division" means the Department of Audit, Division of Banking.

(vi) "Lessee" means a natural person who leases under, or who is offered, a consumer lease.

(vii) "Lessor" means a person who in the ordinary course of business regularly leases, offers to lease or arranges for the leasing of personal property under a consumer lease.

(viii) "Month." For purposes of W.S. 40-14-363, a month shall be one (1) calendar month. The period shall expire on the same date in the succeeding month if there is such a date, otherwise on the last day of the succeeding month.

(ix) "Multiple of the federal minimum wage." For purposes of the limitation on garnishment, the multiple of the federal minimum hourly wage for pay periods other than a week shall be determined as follows:

(A) Where the employee is paid by the day, the multiple shall be six (6), for two (2) days the multiple shall be twelve (12), for three (3) days the multiple shall be eighteen (18), and for four (4) days the multiple shall be twenty-four (24) or six (6) times the number of days;

(B) Where the employee is paid either every two (2) weeks or semi-monthly, then the multiple shall be two and one-sixth ($2 \frac{1}{6}$) x thirty (30) x current federal minimum wage;

(C) Where the employee is paid monthly, then the calendar month shall be considered to consist of four and one-third ($4 \frac{1}{3}$) work weeks and the formula shall be four and one-third ($4 \frac{1}{3}$) x thirty (30) x current federal minimum wage; or

(D) Where the employee is paid once every two months, then the multiple shall be eight and two-thirds ($8 \frac{2}{3}$) x thirty (30) x current federal minimum wage.

(x) "A continuous and systematic solicitation either personally or by mail" as used in W.S. 40-14-120(a)(ii) includes: face-to-face, mail (to include U.S. Postal Service and express or other delivery service), electronic, telephone, facsimile, or by any other similar means including the use of loan brokers.

(xi) "Reg. Z" means 12 CFR 226 *et seq.*, as amended as of January 1, 2005. These Rules do not include any later amendments or editions of Reg.Z past January 1, 2005. Copies of Reg. Z are available for public inspection at the Department of Audit, Division of Banking, 122 W. 25th Street, 3rd Floor East, Cheyenne, Wyoming 82002. Copies of Reg. Z are available at cost from the Department of Audit, Division of Banking.

Section 3. **Filing.**

(a) All papers, records and all other property of the division shall be maintained and filed in the office of the Administrator.

(b) All communications shall be made to the Administrator and the records of such communications kept in said office.

Section 4. **Computation of Time.**

Unless otherwise stated, in computing any time period prescribed by these Rules, the day of the act or event from which the time period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period is less than eleven (11) days, Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Section 5. Application/Licensing.

(a) An application to obtain a license shall be filed with the Administrator. This includes supervised lenders, pawnbrokers, post-dated check cashers and sales finance companies. An application shall be considered “filed” only after all information and appropriate processing fees required by the Administrator have been received from the applicant.

(b) Each applicant shall provide all of the information required on the license application form prescribed by the Administrator, as applicable.

(c) Pursuant to W.S. 40-14-634 (c), each filed application for one (1) or more licenses shall be accompanied by:

(i) A one hundred fifty dollar (\$150.00) processing fee for the first license; and

(ii) An additional processing fee of one hundred fifty dollars (\$150.00) for each additional license. Fees shall be made payable to the Department of Audit.

(d) Each office or place of business shall be licensed separately and a twenty-five dollar (\$25.00) initial license fee shall be paid for each license obtained. Fees shall be made payable to the Department of Audit.

(e) In lieu of filing a new application for one (1) or more subsequent licenses, a licensee may utilize an application currently filed with the Administrator, as defined under this Section, provided:

(i) All information contained on the application currently filed with the Administrator, as required to be provided under subsection (b) of this Section has not changed, and is verified in writing to the Administrator. Written verification of this paragraph must include a notarized signature of the applicant. If a partnership, all partners must execute the written verification. If an organization, an authorized officer of the applicant must execute the written verification;

(ii) The completed application currently filed with the Administrator must have been received within one (1) year from the date of the new written license request; and

(iii) Each written license request for one (1) or more additional licenses shall be submitted with the required processing fees listed under subsection (c) of this Section. If the written license request is approved, the licensee shall also be subject to applicable initial license fees under subsection (d) of this Section.

(f) It is understood and agreed to that an application is a continuing obligation up until approval and issuing of the license applied for. If information in an application becomes inaccurate after filing, the applicant shall promptly notify the Administrator.

Section 6. Change of Ownership.

(a) “Change of ownership” means:

(i) A transfer of all or substantially all of the assets of the business conducted at any license location;

(ii) In all cases other than individuals, a transfer that results in one (1) or more persons owning or controlling greater than fifty percent (50%) of the controlling interests of the licensee, unless such person(s) owned or controlled greater than fifty percent (50%) of such controlling interests as of the date of the most recent filed application; or

(iii) Any change which will result by operation of law in a new type of business entity, in the licensee’s dissolution, disassociation or reformation, such as the change in partners in a general partnership.

(b) “Effective ownership interest” means any person who is entitled or permitted, directly or indirectly, to share in at least twenty-five percent (25%) of the ownership interests of an entity, or to vote for or against a manager.

(c) “Manager” means:

(i) For corporations, the board of directors or, if the corporation has elected not to have a board of directors, the holders of the capital stock of the corporation;

(ii) For limited partnerships, general partnerships or joint ventures, the general partners or joint adventurers; or

(iii) For limited liability companies, statutory or other trusts, and any other business organization, the persons in whom the management of the company, trust, or organization is vested.

(d) “Transfer” means to change in any manner legal or equitable claims of ownership or any rights or obligations relating to any such claim, whether by act or inaction, whether directly or indirectly, whether intentional or not. But “transfer” does not include the granting or imposition of a lien, whether on an ownership interest or any of the assets of the licensee, but does include the foreclosure of any rights of redemption as to any such lien.

(e) Change of effective ownership interest. Within thirty (30) days after a change of any effective ownership interest of a licensee and not a change of ownership under subsection (f) of this Section, the licensee shall provide written notice of the change of effective ownership interest to the Administrator. The Administrator may require the licensee to provide additional information or apply for a new license in the manner prescribed under this section.

(f) Change of ownership. A licensee shall notify the administrator in writing at least sixty (60) days prior to the effective date of a change of ownership. The new owners shall apply for a new license in the manner prescribed under this Section.

Section 7. Modification.

Any modification required to a license at the request of the business, shall be submitted with a twenty-five dollars (\$25.00) modification fee. Fees shall be made payable to the Department of Audit.

Section 8. Annual Renewal.

The annual license renewal fee shall be twenty-five dollars (\$25.00) for each individual license. Fees shall be made payable to the Department of Audit.

Section 9. Records.

If any book, log, journal, document, record or information relevant and necessary to the examination or investigation is kept or maintained electronically, the business examined or investigated shall provide such data or access to data in an electronic format when requested by the Administrator.

RULES AND REGULATIONS OF THE ADMINISTRATOR

CHAPTER 2

DISCLOSURE AND ADVERTISING

Section 1. Authority, Purpose, and Enforcement.

(a) Authority. W.S. 40-14-102(b)(vi) and (c), 40-14-222(f), 40-14-320(e), and 40-14-604(b) and (c) evidence the clear intent and purpose of the legislature to, whenever practicable, maintain consistency and conform the Code and Rules issued there under to the Federal Consumer Credit Protection Act and Regulation Z issued by the Board of Governors of the Federal Reserve System.

(b) This Chapter implements the Code, a purpose of which is to assure that every customer who has need for consumer credit is given meaningful information with respect to the cost of that credit which, in most cases, must be expressed in the dollar amount of finance charge, and as an annual percentage rate computed on the unpaid balance of the amount financed. Other relevant credit information must also be disclosed so that the customer may readily compare the various credit terms available to him from different sources and avoid the uninformed use of credit. This Chapter also implements the provision of the Code under which a customer has a right in certain circumstances to cancel a credit transaction that involves a lien on his residence. Advertising of consumer credit terms and consumer lease terms must comply with specific requirements, and certain credit terms may not be advertised unless the creditor usually and customarily extends such terms. This Chapter is also designed to assure that lessees of personal property are given meaningful disclosures of lease terms, to delimit the ultimate liability of lessees in leasing personal property and to require meaningful and accurate disclosures of lease terms in advertisements. The Code encompasses many aspects of consumer credit; this Chapter relates primarily to disclosures and advertising for consumer credit necessary to preserve consistency between the Code and the Federal Consumer Credit Protection Act and regulations issued thereunder referred to in Section 2 of this Chapter.

Section 2. Adoption of Regulation Z.

(a) Regulation Z, as issued and amended as of January 1, 2009, by the Board of Governors of the Federal Reserve System to implement the Federal Truth in Lending Act, which is contained in Title I of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is hereby adopted as if fully set forth herein, except as otherwise set forth in this Chapter. Incorporation of the full text of Reg. Z in these Rules would be unduly cumbersome or expensive. These Rules do not include any later amendments or editions of Regulation Z past January 1, 2009. If any provision of Regulation Z is in conflict with the Code, the Code provision shall control. Copies of Reg. Z are available for public inspection at the Department of Audit, Division of Banking, 122 W. 25th Street, 3rd Floor

East, Cheyenne, Wyoming 82002. Copies of Reg. Z are available at cost from the Department of Audit, Division of Banking.

(b) Except as otherwise provided herein, this Chapter applies to all persons who are creditors and to all persons who are lessors, as defined in these Rules.

Section 3. **Provisions of Regulation Z modified or not adopted.**

(a) The following sections of Reg. Z are hereby modified:

(i) Section 226.3(b) of Reg. Z is modified to comply with W. S. 40-14-204 and W. S. 40-14-304. These Rules and Reg. Z shall not apply to an extension of credit not secured by real property or an extension of credit not secured by personal property used or expected to be used as the principal dwelling of the consumer, in which the amount financed exceeds fifty thousand dollars (\$50,000.00), or in which there is an express written commitment to extend credit in excess of fifty thousand dollars (\$50,000.00).

(ii) The disclosures required under Section 226.13 of Reg. Z are not adopted by these Rules because Wyoming has not adopted the Fair Credit Billing Act, 15 U.S.C. 1666. It should be noted that federal law does require creditors to abide by Section 226.13 of Reg. Z in order to meet federal billing error resolution requirements.

Section 4. **Insurance Refunds.**

(a) If insurance terminates prior to the end of the term for which it was written because of prepayment in full of the consumer credit transaction,

(i) And if the contract is held by the original creditor he shall make a prompt refund of unearned premium directly to the debtor, or

(ii) If the contract has been assigned, the assignee shall make a prompt refund of the unearned premium directly to the debtor, or send a notice in substantially the following form to the original creditor via U.S. mail with a copy to the consumer and retain a copy in its files:

Date

Dear

The account of your customer.....(consumer & address).....was paid in full on(date).....

Under Wyoming law the consumer is entitled to a refund of unearned credit insurance premiums. You must obtain a prompt refund from the insurer or make the refund yourself.

Signed
(Assignee)

Notice to Consumer

If you have difficulty obtaining the refund to which you are entitled contact:

Administrator
Wyoming Uniform Consumer Credit Code
3rd Floor East, Herschler Building
Cheyenne, Wyoming 82002

Phone: 307-777-7797

RULES AND REGULATIONS OF THE ADMINISTRATOR

CHAPTER 3

WYOMING CONSUMER RENTAL-PURCHASE AGREEMENT ACT

Section 1. **Authority.**

The Rules governing the Wyoming Consumer Rental-Purchase Agreement Act are adopted pursuant to W.S. 40-19-118(b).

Section 2. **Definitions.**

(a) As used in this Chapter and the Wyoming Consumer Rental-Purchase Agreement Act:

(i) All of the definitions set forth in W.S. 40-19-102 are incorporated herein by reference.

(ii) “Financial statement” means any report summarizing the financial condition or financial results of an applicant on any date or for any period. Financial statements include the balance sheet and the income statement.

(iii) “Initial period” means from the date of inception to the first scheduled payment.

(iv) “Monthly” means each calendar month. Monthly payments shall expire on the same date in the succeeding month if there is such a date, otherwise on the last day of the succeeding month. If the payment due date is not a business day, the periodic payment shall expire on the next business day.

(v) “Regularly provides” means providing the use of property under rental-purchase agreements, but only if the merchant made more than twenty-five (25) such agreements in the preceding calendar year. If a merchant did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(vi) “Weekly” means every seven (7) consecutive calendar days. Weekly payments shall expire on the same day in the succeeding week. If the payment due date is not a business day, the periodic payment shall expire on the next business day.

Section 3. License Required.

(a) Any merchant who regularly provides the use of property under rental-purchase agreements shall apply for a license to conduct business as a rental-purchase merchant. Each applicant shall provide all of the information required on the license application form prescribed by the Administrator, as applicable.

(b) The completed application shall be accompanied by a processing fee of three hundred dollars (\$300.00), made payable to the Department of Audit.

Section 4. Licensing Standards, Fees.

(a) A license to engage in the business as a rental-purchase merchant will be issued to an applicant if the Administrator, upon investigation and evaluation of the completed application and all other relevant information, determines that all of the requirements of W.S. 40-19-114 have been met.

(b) The Administrator may deny an application to engage in the business as a rental-purchase merchant if the Administrator, upon investigation and evaluation of the completed application and all other relevant information, determines that:

(i) The applicant has not satisfied the requirements of W.S. 40-19-114;

(ii) The applicant has violated any provision of W.S. 40-19-101 through 40-19-120;

(iii) The applicant has violated any state or federal law applicable to the conduct of the business of a rental-purchase merchant including, but not limited to, any rule, regulation or administrative order or directive promulgated thereunder;

(iv) The applicant has conducted, or from the information provided it appears to the Administrator that the applicant will conduct, its business in an unsafe and unsound manner; or

(v) The applicant has engaged in conduct which has resulted in the suspension or revocation of its license to engage in the business as a rental-purchase merchant by the licensing authority of any other state.

(c) An applicant whose application has been denied under subsection (b) may request a contested case hearing under Chapter 4 of these Rules.

(d) Each office or place of business shall be licensed separately and a fifty dollar (\$50.00) license fee shall be paid for each license initially required, made payable to the Department of Audit.

Section 5. Modification.

(a) If the merchant wishes to move to another location or change the business name on the license, the merchant shall:

(i) Give at least thirty (30) days written notice to the Administrator;
and,

(ii) Pay a license modification fee of twenty-five dollars (\$25.00) for each license required to be modified, made payable to the Department of Audit.

Section 6. Annual Renewal.

As required by W.S. 40-19-114(j), merchants licensed under the Wyoming Consumer Rental-Purchase Agreement Act shall pay an annual license renewal fee of fifty dollars (\$50.00) per license location, made payable to the Department of Audit. Said fees shall accompany the license renewal form which will be provided to each licensee by the Administrator.

Section 7. Additional Charges.

(a) In addition to rental payments, a merchant may contract for and receive the following additional charges in connection with a rental-purchase agreement:

(i) A reinstatement fee pursuant to W.S. 40-19-108(a)(xi). The reinstatement fee may not exceed the greater of 5% of the delinquent payment or two dollars (\$2.00). Only one reinstatement fee may be assessed and collected on any delinquent payment, regardless of how long the payment remains unpaid;

(ii) An optional pickup fee not to exceed twenty dollars (\$20.00) for three (3) or fewer items or forty dollars (\$40.00) for four (4) or more items that are actually picked up;

(iii) An optional redelivery fee not to exceed twenty dollars (\$20.00) for three (3) or fewer items or forty dollars (\$40.00) for four (4) or more items that are actually redelivered;

(iv) A liability damage waiver fee may be contracted for and received pursuant to W.S. 40-19-111(a).

Section 8. Notice of Default and Right to Cure.

A notice in substantially the following form complies with the requirement in W.S. 40-19-109(b):

(Name, address and telephone number of merchant)
(Account number, if any)
(Brief description of transaction)
(Date) is LAST DATE FOR PAYMENT
(Amount) is the AMOUNT DUE NOW

You have failed to renew your rental agreement(s). If you pay the AMOUNT DUE NOW (above) by the LAST DATE FOR PAYMENT (above), you may continue with the contract as though you had renewed on time. If you do not pay by that date, we may exercise our rights under the law. You may be required to pay reasonable costs authorized by law.

PLEASE NOTE: As of the LAST DATE FOR PAYMENT (above) you will owe the following additional payments:

(date due)	(amount)
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In order to cure your account fully, the payment or payments listed above must also be paid in full on or before the LAST DATE FOR PAYMENT. If you have questions, promptly write or telephone (name of merchant).

RULES AND REGULATIONS OF THE ADMINISTRATOR

CHAPTER 4

RULES OF PRACTICE AND PROCEDURE BEFORE THE ADMINISTRATOR

Section 1. Authority.

This Chapter is promulgated in part pursuant to W.S. §16-3-102(a)(i) (mandate to promulgate rules of practice and procedure).

Section 2. Wyoming Administrative Procedures Act (WAPA).

The WAPA as defined by W.S. 16-3-101 *et seq.* is incorporated herein by reference.

Section 3. Wyoming Rules of Civil Procedure (WRCP).

The WRCP insofar as they are applicable and not inconsistent with the WAPA are incorporated herein by reference.

Section 4. Definitions.

(a) For purposes of this Chapter, the following definitions apply:

(i) “Adjustment order” means an order issued pursuant to W.S. 40-14-616.

(ii) “Appeal period” means the period of twenty (20) days after the notice date.

(iii) “Cease and desist order” means an order that instructs the ordered person to cease and desist from proscribed activity.

(iv) “Contested case” means any formal or investigative hearing before the Administrator.

(v) “Hearing” means a public hearing before the Administrator on an application as provided in W.S. 40-14-634, W.S. 40-19-114, or W.S. 40-14-643(c), or an appeal from the Administrator’s notice of intent.

(vi) “Hearing date” means the date set by the hearing officer for the hearing. The hearing date shall be no less than ten (10) days and no more than ninety (90) days from the date the appeal is filed with the Administrator. Upon agreement of the

parties and the hearing officer, the hearing date may be extended past ninety (90) days from the date the appeal is filed.

(vii) "Hearing notice" means the notice of the hearing given by the hearing officer to the respondent.

(viii) "Hearing officer" means the any person appointed by the Administrator to preside over a contested case.

(ix) "Notice date" means the date on which the ordered person is served with a notice of intent, which shall conclusively be the date shown on the return receipt or other reliable report of service.

(x) "Notice of intent" means the notice given by the Administrator that he intends to issue a final order.

(xi) "Order" means a cease and desist order, penalty order, order to show cause, adjustment order, or any other order issued by the Administrator.

(xii) "Ordered person" means a person who or which is the subject of an order and upon whom or which the order is to operate directly.

(xiii) "Order to show cause" means an order issued pursuant to W.S. 40-14-635 or W.S. 40-19-115.

(xiv) "Penalty order" means an order, or such portion of an order, that imposes a civil monetary penalty.

(xv) "Person" means an individual, corporation, partnership, trust, association, or other entity.

(xvi) "Proscribed activity" means, as determined by the Administrator, any action or inaction that violates the Wyoming Uniform Consumer Credit Code or the Wyoming Rental-Purchase Agreement Act.

(xvii) "Respondent" means the person whose legal rights, duties, privileges, or conduct are the subject of a formal or investigative hearing before the Administrator.

Section 5. Issuance of Orders.

(a) The Administrator is empowered to issue orders under the Wyoming Uniform Consumer Credit Code and the Wyoming Rental-Purchase Agreement Act. All orders shall be in writing.

(b) All orders shall be delivered to the ordered person;

(i) by certified mail, addressed to the last known address of the ordered person, as shown on the records of the Administrator; or

(ii) in the manner provided for service of process under the Wyoming Rules of Civil Procedure.

(c) Each order shall be accompanied by a notice of intent.

Section 6. Content of Notices of Intent and Orders.

(a) A notice of intent shall include the following:

(i) The name and street mailing address of each ordered person;

(ii) The effective date of the order, unless specified in the order;

(iii) A copy of the order; and

(iv) A statement informing the ordered person that it has the right to a hearing on the order before the Administrator and that failure to request a hearing within the appeal period will result in the waiver of the right to appeal the order before the Administrator.

(b) An order shall include:

(i) The name of the ordered person, identified with reasonable particularity, such as by residence address, social security number or employment status;

(ii) A brief statement, explaining the basis for the issuance of the order;

(iii) If applicable, the effective date of the order, which may be immediately upon issuance;

(iv) In the case of a cease and desist order, a statement directing the ordered person to discontinue the proscribed activity, directing it to correct the effects of or the steps leading to the proscribed activity, or both;

(v) A statement of the grounds for issuing the order, including citation to the statute or rule involved, if any;

(vi) A statement of the facts in support of the allegations contained in the grounds for issuing the order.

Section 7. Representation before the Administrator; Notice of Appearance.

(a) A person may represent itself, or may be represented either by a Wyoming attorney or by a qualified foreign attorney, in proceedings before the Administrator.

(b) Each Wyoming attorney and each qualified foreign attorney shall file with the Administrator a notice of appearance before representing a party in connection with a hearing under this Chapter. In the case of a qualified foreign attorney, the notice of appearance shall have no meaning or effect unless and until his associated Wyoming attorney shall have also filed with the Administrator a notice of appearance. All notices of appearance shall set forth all facts necessary to determine that the attorney is either a Wyoming attorney or a qualified foreign attorney and is authorized to represent his client under this Section.

(c) Administrator counsel shall not be required to file a notice of appearance.

Section 8. Ex Parte Communication.

Unless required for the disposition of ex parte matters authorized by law, the hearing officer shall not consult directly or indirectly with any party regarding a submission, except as allowed under W.S. 16-3-111. A request for status of a proceeding is not an ex parte communication.

Section 9. Confidentiality.

(a) All matters and proceedings arising out of or related to an application or a suspension, revocation, or an order shall be confidential, except as otherwise provided in this Section.

(b) At the hearing, the hearing officer may adjourn the public portion of the hearing at any time to consider or receive any protected material in a session that is not open to the public. To the extent that information is disclosed at public portions of the hearing, such information shall not be confidential.

(c) The hearing officer's findings of fact and conclusions of law and report and recommendation to the Administrator shall not be confidential and shall be available for public inspection under the Wyoming Public Records Act.

(d) After the Administrator has rendered his final decision after the hearing, any written report of such decision shall not be confidential and shall be available for public inspection under the Wyoming Public Records Act.

Section 10. Appointment of Hearing Officer.

(a) Promptly after an appeal is filed with the Administrator, the Administrator may appoint a hearing officer to preside at any proceeding before the Administrator.

(b) The hearing officer shall have all powers necessary to conduct the hearing fairly and impartially, including the power to:

- (i) Administer oaths and affirmations;
- (ii) Issue subpoenas;
- (iii) Rule upon offers of proof and receive relevant evidence;
- (iv) Take depositions or cause depositions to be taken;
- (v) Regulate the course of the hearing;
- (vi) Hold conferences for the settlement or simplification of issues;
- (vii) Dispose of procedural requests and similar matters;
- (viii) Make proposed findings of fact, proposed conclusions of law and recommended decisions, but only as and when directed by the Administrator; and
- (ix) Take any other action authorized by the Wyoming Administrative Procedure Act or these Rules.

Section 11. Transcripts of Hearings.

(a) If a person desires a copy of those portions of the recording of a hearing that are available for public inspection, it shall request the same in writing. Such request shall be delivered to the Administrator, along with a fee that the Administrator shall determine on a case-by-case basis to recoup the total cost of services and materials necessary to make the copy, including any editing necessary to prevent the disclosure of protected material. Upon receipt of the request and the required fee, the Administrator shall provide such copy to the requesting party as soon as practicable.

(b) If a party desires that a hearing be transcribed by court reporter, it must so inform the Administrator and the hearing officer in writing and make the necessary arrangements and pay all associated costs related to the same. In each such case, the court reporter shall not record protected material nor any proceedings that the party providing the court reporter is not permitted to attend.

Section 12. Form and Content of Filings.

(a) All pleadings filed with the Administrator shall be printed or typewritten.

(b) After a case has been assigned a docket number, all pleadings filed therein shall bear the title, "Before the Administrator," and docket number of the case in which they are filed.

(c) Signing of pleadings. Every party who is not represented by an attorney shall sign his pleadings and state his address. Every pleading of a party represented by an attorney shall be signed by the attorney and shall show his address.

Section 13. Service of Process; Delivery of Other Materials; Use of Overnight Couriers.

(a) Whenever any document or other material that is required to be served on, filed with or otherwise delivered to the Administrator or hearing officer, such service, filing or delivery shall be made in any manner permitted under the Wyoming Rules of Civil Procedure for service of process.

(b) Whenever any document or other material is required to be served on or otherwise delivered to a party in connection with proceedings before the Administrator, such service or delivery shall be made upon:

(i) If such party is represented by counsel who has filed a notice of appearance in accordance with Section 7, then upon such counsel; or

(ii) If such party is an entity or a group of individuals and is not represented by counsel, then upon the agent designated by such party for service of process; or

(iii) In all other circumstances, upon such party.

(c) Whenever any document or other material is required to be served on, filed with or otherwise delivered to any other person, such service, filing or delivery shall be made in any manner permitted under the Wyoming Rules of Civil Procedure for service of process.

(d) Any notice or other written communication that may be delivered by certified mail may be delivered by any reputable, nationwide overnight courier service that obtains the signature of the person to whom delivery is made and that retains records of delivery.

Section 14. Appeal.

Each appeal filed by the respondent shall contain a statement in ordinary precise language of the matter that is being appealed, and the defense or the position of the

respondent. The defense or position of the respondent shall include specific references to legal authority and facts which support the respondent's position or defense.

Section 15. Discovery and Depositions.

(a) Until thirty (30) days before the hearing or other date determined by the hearing officer, discovery and the taking of depositions shall be available to the parties as provided in W.S. 16-3-107.

(b) The Administrator is subject to the discovery provisions of this Section but neither the Administrator nor any employee of the Division shall be required to disclose protected material, nor shall any of them be compelled to testify or give a deposition. Discovery sought from any employee of the Division initially shall be by written application to the Administrator. If the Administrator refuses to allow discovery in whole or in part, the aggrieved party may apply to the district court for the district in which the hearing is to be conducted for an order directed to the appropriate person to compel discovery.

Section 16. Pre-hearing Conference; Agenda.

(a) At least five (5) days before the hearing, the hearing officer shall conduct a pre-hearing conference to consider the matters specified in subsection (d) of this Section. All parties shall attend the conference. The hearing officer may require each party to submit a memorandum to address the matters specified in subsection (d) of this Section. The conference may be conducted by telephone conference call or other suitable means by which all persons who are part of the conference may actively participate in the conference and can be heard by all other persons who are part of the conference.

(b) The hearing officer shall give each party at least five (5) days notice of the date, time and place for the pre-hearing conference.

(c) The following matters shall be considered at the pre-hearing conference:

(i) The names and addresses of witnesses whom each party intends to call to testify at the hearing, together with a detailed summary of the testimony expected from each witness;

(ii) The documentary evidence each party intends to introduce at the hearing;

(iii) The number, description, and purpose of all demonstrative exhibits each party intends to use at the hearing;

(iv) Material facts, if any, of which the Administrator will be requested to take official notice pursuant to W.S. 16-3-108(d);

(v) Stipulations of fact and documentary evidence to be admitted into the record;

(vi) Matters requiring consideration or submission to the Administrator in executive session;

(vii) The length of time to be devoted to presentation of cases and delivery of opening and closing statements;

(viii) Any other matters that will simplify the issues or otherwise allow the hearing to be conducted more efficiently and quickly; and

(ix) A determination as to whether briefs are to be filed.

(d) At the hearing, the hearing officer shall admit into the record all facts, evidence and other matters to which the parties stipulated at the conference. The Administrator also shall identify those matters of which he will take official notice.

(e) The hearing officer shall prepare an agenda that sets forth the order of business to come before him during the hearing, and the witnesses to be called, the documentary evidence to be introduced, and the exhibits to be used at the hearing. Before the hearing, the Administrator shall provide a copy of the agenda to each party. The agenda will govern the order of business during the hearing unless modified by the Administrator.

Section 17. Right to Appear at Hearing; Public Comment.

(a) Only parties may appear before the hearing officer at a hearing. Whether for himself or in a representative capacity, any individual may testify provided that he is called by a party or by the hearing officer.

(b) The hearing officer, in his discretion, may permit persons in attendance at the hearing to present oral comments at the conclusion of the hearing. The Administrator and the parties may ask questions of any person who presents oral comments at the hearing.

Section 18. Open Hearing; Executive Session.

(a) The hearing shall be open to the public except as otherwise provided in this Chapter. If a person disrupts a hearing or otherwise renders unfeasible the orderly conduct of the hearing, the Administrator or hearing officer shall remove the person from the hearing and continue in session, or they may recess the hearing.

(b) At any time during the hearing, the Administrator or hearing officer may adjourn and reconvene in executive session to consider protected material. Executive sessions of the hearing shall not be open to the public.

Section 19. Order of Procedure.

(a) The hearing shall be conducted substantially as follows:

(i) The hearing officer shall call the hearing to order and call the case to be heard;

(ii) The hearing officer shall address any motions or preliminary matters to be heard, including introduction of exhibits, stipulated facts and evidence, and matters to be noticed officially by the Administrator;

(iii) The hearing officer shall administer to all witnesses an oath or affirmation in substantially the manner prescribed in W.S. 1-12-114;

(iv) Each party may make an opening statement, in the same order as evidence is to be presented, as set forth in this Section;

(v) The respondent shall present its case;

(vi) All other parties shall present their respective cases in the order prescribed by the hearing officer;

(vii) All parties shall be accorded a reasonable amount of time to cross-examine witnesses presented by another party;

(viii) All parties may present rebuttal evidence, if any, in the order and within the time limits prescribed by the hearing officer; and

(ix) Each party may make a closing statement. The hearing officer shall determine the amount of time for each party to make its closing statement.

(b) The hearing officer or the Administrator may ask questions of any party or witness.

Section 20. Nature of Hearing; Presentation of Evidence.

(a) The purpose of the hearing is to obtain a full and true disclosure of all relevant and material facts so that the findings, decisions and orders of the hearing officer are rendered upon information as complete and trustworthy as is practicable. Hearings are not intended to be adversarial in nature.

(b) The taking of evidence shall be governed by W.S. 16-3-108. Documentary and other physical evidence submitted for the Administrator's consideration shall be marked as exhibits. Upon such marking, such evidence shall become part of the record.

(c) The hearing officer shall exercise reasonable control over the manner and order of questioning witnesses and presenting other evidence so as to:

(i) make more effective the ascertainment of the truth and a full and true disclosure of relevant and material facts;

(ii) avoid needless consumption of time;

(iii) avoid presentation of irrelevant, immaterial or unduly repetitious evidence;

(iv) avoid the public disclosure of protected material;

(v) protect the witness from harassment and undue embarrassment; and

(vi) maintain an orderly and efficient hearing.

(d) Cross-examination shall be limited to the subject matter of the direct examination and matters relating to the credibility of the witness. The hearing officer may permit additional inquiry into matters as if on direct examination.

(e) No relevant information shall be excluded solely because it is hearsay.

Section 21. Reopening of Hearing.

Upon reasonable notice to all parties, the hearing officer may reopen the hearing at any time prior to the issuance of his findings of fact, his conclusions of law and his decision and/or order relating to the hearing. To the extent possible, a reopened hearing shall be held in the same community and at the same location as the initial hearing.

Section 22. Records of Hearing and Executive Sessions.

(a) The record of the hearing shall include:

(i) all formal and informal notices, pleadings, motions and intermediate rulings;

(ii) evidence received or considered, including matters officially noticed;

(iii) questions and offers of proof, objections and rulings on the same; and

(iv) any opinion, findings, conclusions, decision or order of the Administrator or the hearing officer.

(b) Portions of the record that contain evidence, testimony, deliberations or other matters presented in executive session shall be deemed to be matters described in W.S. 16-4-203(d) and in W.S. 9-1-512 and shall not be subject to public inspection.

Section 23. Recording of Hearings.

The hearing shall be recorded verbatim steno graphically, or by court reporter, videotape, audiotape or any other means of verbatim recording as may be determined by the Administrator or hearing officer.

Section 24. Findings and Conclusions.

(a) In any proceeding before the Administrator:

(i) The parties have a right to submit proposed findings of fact and conclusions of law or a proposal for decision. The hearing officer shall set reasonable deadlines for submission of proposed findings of fact and conclusions of law.

(ii) Proposed findings of fact submitted under this section must be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record the facts appear.

(iii) The Administrator may direct the hearing officer to write proposed findings of fact and conclusions of law.

(iv) The Administrator shall consider the findings of fact and conclusions of law and;

(A) adopt the proposed findings of fact and conclusions of law, in whole or in part;

(B) decline to adopt the proposed findings of fact and conclusions of law, in whole or in part; or

(C) direct the hearing officer to give further consideration to the proceeding with or without reopening the hearing.

Section 25. Unclaimed Exhibits.

Within sixty (60) days after the expiration of all periods within which an appeal of a final determination must be filed, the parties shall retrieve all exhibits. After that time, the Administrator may dispose of any exhibits not so retrieved.

RULES AND REGULATIONS OF THE ADMINISTRATOR

CHAPTER 5

LOAN ORIGINATOR LICENSING; FEES; INFORMATION CHALLENGE

Section 1. Application/Licensing.

(a) Each mortgage loan originator applicant shall provide all of the information required on the license application form prescribed by the Administrator, as applicable.

(b) An application to obtain a mortgage loan originator license pursuant to W.S. 40-14-642 shall be considered “filed” only after all information and appropriate processing fees required have been received by the Administrator.

(c) An application for a license is a continuing obligation up until approval and issuing of the license applied for. If information in an application becomes inaccurate after filing, the applicant shall promptly notify the Administrator.

(d) A mortgage loan originator license is only active if the mortgage loan originator is sponsored by a company engaged in business under the Code and registered with the Nationwide Mortgage Licensing System. A mortgage loan originator can only be sponsored by and conduct business as a mortgage loan originator for only one company at any time.

Section 2. Application Fee.

Pursuant to W.S. 40-14-642(f), each application for a mortgage loan originator license shall be accompanied by a one hundred and fifty dollar (\$150.00) application fee.

Section 3. License Renewal Fee; Reinstatement; Continuing Education.

(a) Pursuant to W.S. 40-14-646(a)(iii), the mortgage loan originator license renewal fee shall be one hundred and fifty dollars (\$150.00).

(b) Pursuant to W.S. 40-14-646(b) and W.S. 40-14-647(h), if any licensed mortgage loan originator fails to satisfy the requirements for renewal of their license by December 1, that license shall expire on December 31. The mortgage loan originator shall have until March 1 of the year immediately following the year the license expired to satisfy all of the renewal requirements under W.S. 40-14-646(a)(i), (ii) and (iii) and reinstate the license. Business as a mortgage loan originator may not be conducted after December 31 until such time as all of the renewal requirements have been satisfied and the license has been reinstated to active status on the Nationwide Mortgage Licensing

System. Failure to complete all of the renewal requirements by March 1 will result in final expiration of the license.

Section 4. Information Challenge on Report to the Registry.

(a) Upon written request, an individual is entitled to a hearing to challenge any information relating to that individual entered onto the registry by the Administrator if the individual has previously provided a written challenge to the Administrator regarding such information and the Administrator has provided a written response that the information being challenged will not be removed from the registry.

(b) Notwithstanding any provision under the Wyoming Administrative Procedure Act, a request for hearing shall not be made more than fifteen (15) days after the individual has received notification by certified mail that information being challenged will not be removed from the registry by the Administrator and the supporting reasons for that decision.

Section 5. Surety Bond.

(a) Pursuant to W.S. 40-14-637, any organization employing or contracting with a mortgage loan originator shall obtain an initial surety bond in the amount of twenty five thousand dollars (\$25,000.00). Annually thereafter and prior to January 31 of each year, the bond amount shall be adjusted based upon the total volume of residential mortgage loan business under the Code conducted by mortgage loan originators during the previous calendar year according to the following scale:

(i) If the total volume of Wyoming residential mortgage loan business under the Code conducted by mortgage loan originators was equal to or less than three million dollars (\$3,000,000.00), the amount of the bond shall be twenty-five thousand dollars (\$25,000.00).

(ii) If the total volume of Wyoming residential mortgage loan business under the Code conducted by mortgage loan originators was greater than three million dollars (\$3,000,000.00) but less than ten million dollars (\$10,000,000.00) the amount of the bond shall be fifty thousand dollars (\$50,000.00).

(iii) If the total volume of Wyoming residential mortgage loan business under the Code conducted by mortgage loan originators was equal to or greater than ten million dollars (\$10,000,000.00) the amount of the bond shall be one hundred thousand dollars (\$100,000.00).