

**CHAPTER 36**  
**HB 649-FN - FINAL VERSION**

11Apr2019... 1563-EBA

2019 SESSION

19-0779

11/03

**HOUSE BILL 649-FN**

AN ACT relative to consumer credit corrections, consumer credit protection from fraud, and consumer credit regulatory reform.

SPONSORS: Rep. Luneau, Merr. 10

COMMITTEE: Commerce and Consumer Affairs

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**ANALYSIS**

This bill clarifies the banking commissioner's rulemaking authority relative to certain regulated transactions, defines "significant event" for purposes of consumer credit, small loans, debt adjustments, and money lending, and makes other technical changes to statutes pertaining to banks and banking in New Hampshire.

This bill is a request of the banking department.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to consumer credit corrections, consumer credit protection from fraud, and consumer credit regulatory reform.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

36:1 Trade and Commerce; Regulation of Consumer Credit Transactions; Rebate of Interest for Certain Transactions. Amend RSA 358-K:2, II to read as follows:

II. With respect to a precomputed consumer credit transaction payable according to its original terms in more than 48 monthly installments, the rebate of the unearned portion of the interest shall be computed by applying, according to the actuarial method, the contract rate of interest to the actual unpaid balances of the amount financed for the actual time that the unpaid balances were outstanding as of the date of payment, giving effect to each payment as of the date of the payment. The bank commissioner [~~shall~~] **may** adopt rules under RSA 541-A, relative to simplifying the calculation of the unearned portion of the interest, including allowance of the use of tables or other methods and based on the assumption that all payments were made as originally scheduled.

36:2 New Paragraphs; Retail Installment Sales; Retail Installment Sales of Motor Vehicles; Prohibitions. Amend RSA 361-A:3-b by inserting after paragraph III the following new paragraphs:

IV. It is unlawful to instruct, solicit, propose, or cause a person to sign another's signature on any document without legal authority.

V. It is unlawful to solicit, accept, or execute any contract or other document related to any transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information or as otherwise expressly provided in this chapter.

36:3 Banks and Banking; Bank Commissioner; Consumer Complaints and Restitution. Amend RSA 383:10-d to read as follows:

383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive authority and jurisdiction to investigate conduct that may violate any of the provisions of RSA 361-A, ***RSA 361-E***, and Titles XXXV and XXXVI and administrative rules adopted thereunder. The commissioner may hold hearings relative to such conduct and may order restitution for a person or persons adversely affected by such conduct. The commissioner may request the assistance and services of the department of justice and shall delegate to the department of justice the authority to investigate criminal conduct under this section. The commissioner shall provide the department of justice information relevant to the criminal investigation of such matters, if applicable, and shall cooperate with such investigation and prosecution.

36:4 Banks and Banking; Bank Commissioner; Consumer Complaint Administrator. Amend RSA 383:10-f to read as follows:

383:10-f Consumer Complaint Administrator. The commissioner shall annually designate one person from within the banking department who shall administer and coordinate the commissioner's response to consumer complaints concerning conduct in trade or commerce licensed ***or regulated under Title XXXV***, Title XXXVI, RSA 361-A, ***or RSA 361-E*** or conduct which is alleged to be an unfair or deceptive practice under the provisions of RSA 383:10-d.

36:5 New Paragraph; Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Definitions. Amend RSA 397-A:1 by inserting after paragraph XXIII-a the following new paragraph:

XXIII-b. "Significant event" means:

- (a) Filing for bankruptcy or reorganization;
- (b) Criminal felony indictment or conviction of any of the licensee's principals;
- (c) Receiving notification of a license denial, cease and desist, consent agreement or order, suspension, or revocation, or any other formal administrative action in any state against the licensee;
- (d) Receiving notification of any enforcement action or investigation by the attorney general of the state of New Hampshire or of any other state pursuant to any consumer protection statute, and the reasons therefor, except routine investigations of consumer complaints; or
- (e) Entering into a consent agreement, settlement agreement, memorandum of understanding, or similar agreement with any regulatory body pertaining to the licensee's practices.

36:6 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend RSA 397-A:5, I to read as follows:

I. To be considered for mortgage banker, mortgage broker, or mortgage servicer licensing, each person shall complete and file ***an application*** with the department, through the Nationwide Multistate Licensing System and Registry ***using the Nationwide Multistate Licensing System and Registry form***~~[, one verified application prescribed by the commissioner]~~. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices, and a list of the principals of the applicant. Each principal shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving financial services or a financial services-related business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses or has ever been convicted of any felony.

36:7 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend RSA 397-A:5, III(c) to read as follows:

- (c) Each mortgage banker, mortgage broker, or mortgage servicer applicant shall be required to submit to the department detailed financial information sufficient for the commissioner to determine the applicant's ability to

conduct the business of a mortgage banker, a mortgage broker, or a mortgage servicer with financial integrity. The application shall include a balance sheet, income statement, cash flow statement, statement of owner's equity, and note disclosure, and shall be prepared in accordance with generally accepted accounting principles. An applicant or licensee shall demonstrate and maintain a minimum positive net worth **in the amount of at least \$25,000** ~~and an amount of minimum positive net worth shall be set by rule~~. Minimum net worth shall be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner. Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under the authority of RSA 397-A:12. Each mortgage banker and mortgage servicer applicant shall post a continuous surety bond in the minimum amount of \$100,000 to the commissioner that shall be increased under conditions set by rule. Each mortgage broker shall post a continuous surety bond in the minimum amount of \$50,000 to the commissioner that shall be increased under conditions set by rule. Surety bonds shall provide coverage in an amount that reflects the dollar amount of loans originated by each mortgage loan originator employed by or retained by the mortgage banker, mortgage broker, or mortgage servicer as determined by the commissioner. Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 30 days in advance of the cancellation or termination of the bond. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the licensee within 6 years after the act upon which the recovery or suit is based. When an action is commenced on a licensee's bond, the licensee shall immediately file a new bond. Immediately upon recovery upon any action on the bond the licensee shall file a new bond.

36:8 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend the introductory paragraph of RSA 397-A:5, IV to read as follows:

IV. Every applicant for mortgage banker, mortgage broker, or mortgage servicer licensing under this chapter shall file with the commissioner ~~in such form as the commissioner prescribes by rule,~~ irrevocable consent appointing the commissioner to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

36:9 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend RSA 397-A:5, IV-a to read as follows:

IV-a. To be considered for originator licensing, the applicant shall complete and file **an application** with the department, through the Nationwide Multistate Licensing System and Registry, ~~[one verified application prescribed by the commissioner]~~ **using the Nationwide Multistate Licensing System and Registry form**. The application shall be signed under oath by both the originator applicant and the licensed mortgage banker, mortgage broker, or mortgage servicer for whom the individual will originate mortgage loans. Each licensed mortgage originator shall register with and maintain a valid unique identifier issued by the Nationwide Multistate Licensing System and Registry. At a minimum, the application shall state the primary business address of the applicant and the applicant's social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner and the Nationwide Multistate Licensing System and Registry may require including, but not limited to, the applicant's residential and employment history.

The applicant shall disclose his or her financial, criminal, regulatory civil, arbitration, civil litigation, and employment termination history, including but not limited to, whether the applicant has ever been issued or been the subject of an injunction or administrative order or has ever been charged with or convicted of a misdemeanor or any felony. Each license application shall be accompanied by a nonrefundable license fee of \$100. ~~[If, in connection with an application for licensure as a mortgage loan originator, the banking department does not receive a response to an inquiry or request for further information within 60 days from the date of such inquiry or request, the~~

~~department may withdraw as abandoned the application.~~] A mortgage originator's license may be transferred during a calendar year from one mortgage banker, mortgage broker, or mortgage servicer to another upon payment of a \$50 fee and approval by the commissioner. Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

36:10 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend RSA 397-A:5, IV-c(a)(2) to read as follows:

(2) Has not been convicted of, or pled guilty or nolo contendere to ~~[a felony in a domestic, foreign, or military court]:~~

(A) ***Any felony in a domestic, foreign, or military court occurring at any time*** during the 10-year period ~~[preceding]~~ ***prior to*** the date of the application ***that has not been pardoned*** ~~[for licensing and registration];~~ or

(B) ~~[At any time preceding the date of such application if such]~~ ***Any felony in a domestic, foreign, or military court at any time that has not been pardoned and which*** ~~[involved]~~ ***involves*** an act of fraud, dishonesty, theft, or a breach of trust or money laundering, ***or other crime concerning financial services or a financial services-related business including crimes related to making false statements or omissions, any theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses;*** and

(C) ~~[Provided that any pardon of a conviction shall not be a conviction for the purposes of this paragraph]~~ ***Any felony more than 10 years prior the date of application that has not been pardoned, except that if the felony is not for an act of fraud, dishonesty, theft, or a breach of trust or money laundering, or other crime concerning financial services or a financial services-related business including crime related to making false statements, or omissions, any theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses, the commissioner may allow licensure by rule or order;*** and

36:11 Banks and Banking; Licensing on Nondepository Mortgage Bankers, Brokers, and Servicers; License Application. Amend RSA 397-A:5, IV-c(a)(4) to read as follows:

(4) Has never been convicted of, or pled guilty or nolo contendere in a domestic, foreign, or military court to, a misdemeanor ~~[involving]~~ ***that has not been pardoned and which involves an act of fraud, dishonesty, theft, or a breach of trust or money laundering or other misdemeanor concerning*** financial services or a financial services-related business ~~[any fraud]~~, ***including a crime related to making*** false statements~~[-]~~ or omissions~~[-]~~, any theft or wrongful taking of property~~[-]~~, bribery~~[-]~~, perjury~~[-]~~, forgery~~[-]~~, counterfeiting~~[-]~~, extortion~~[-]~~, or a conspiracy to commit any of these offenses, except that for such a misdemeanor conviction ***occurring more than*** ~~[at a time prior to]~~ 10 years ~~[preceding]~~ ***prior to*** the date of ~~[such]~~ application, the commissioner may allow licensure by rule or order; and

36:12 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; License Denial or Abandonment. Amend the section heading of RSA 397-A:7 to read as follows:

397-A:7 License Denial ***or Abandonment***; Appeal.

36:13 New Paragraphs; Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers. Amend RSA 397-A:7 by inserting after paragraph III the following new paragraphs:

IV. The commissioner may deem abandoned and withdraw any application for licensure as a mortgage banker, mortgage broker, or mortgage servicer made pursuant to this chapter if the applicant fails to respond in writing within 180 calendar days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

V. The commissioner may deem abandoned and withdraw any application for licensure as a mortgage loan originator made pursuant to this chapter if the applicant fails to respond in writing within 60 calendar days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

36:14 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Change in Name. Amend RSA 397-A:10, IV to read as follows:

IV. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee must promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within



30 days of the event that requires the filing of the amendment. ~~[Certain]~~ Significant events ~~[as defined by rule]~~ shall be reported to the department in writing within 10 days.

36:15 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Lending Practices. Amend RSA 397-A:14, IV(m)-(n) to read as follows:

(m) Collect an advance fee for a loan modification; ~~[or]~~

(n) Engage in unfair, deceptive, unethical, or fraudulent business practices~~[-];~~

***(o) Instruct, solicit, propose, or cause a person to sign another's signature on any document without legal authority; or***

***(p) Solicit, accept, or execute any contract or other document related to any transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information or as otherwise expressly provided in this chapter.***

36:16 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Borrower's Rights. Amend RSA 397-A:15, III to read as follows:

III. The advance collection of interest from a borrower shall only be permitted upon the origination of a mortgage loan and shall be computed on a simple interest per annum basis. ***Notwithstanding the provisions of RSA 358-K:4-a,*** prepaid interest shall not be collected for a period of greater than 31 days and such method may be used by the lender to achieve a common loan payment date for all of its loans, such as the first day of the month. Collection and application of a regularly scheduled monthly payment before the due date shall not be considered as the advance collection of interest on a mortgage home loan under this chapter.

36:17 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Order to Show Cause. Amend RSA 397-A:18, V to read as follows:

V. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a mortgage broker, mortgage banker, ***mortgage servicer***, or mortgage originator, or cannot be located after reasonable search, the commissioner may by order revoke the license, impose penalties, or deny the application.

~~[The commissioner may deem abandoned and withdraw any application for licensure made pursuant to this chapter, if any applicant fails to respond in writing within 180 calendar days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.]~~

36:18 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Definitions. Amend RSA 399-A:1, VIII to read as follows:

VIII. "Direct owner" means any person, including ~~an [individuals]~~ ***individual***, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

36:19 New Paragraph; Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Definitions. Amend RSA 399-A:1 by inserting after paragraph XIX the following new paragraph:

XIX-a. "Significant event" means:

(a) Filing for bankruptcy or reorganization;

(b) Criminal felony indictment or conviction of any of the licensee's principals;

(c) Receiving notification of a license denial, cease and desist, consent agreement or order, suspension, or revocation, or any other formal administrative action in any state against the licensee;

(d) Receiving notification of any enforcement action or investigation by the attorney general of the state of New Hampshire or of any other state pursuant to any consumer protection statute, and the reasons therefor, except routine investigations of consumer complaints; or

(e) Entering into a consent agreement, settlement agreement, memorandum of understanding, or similar agreement with any regulatory body pertaining to the licensee's practices.

36:20 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Application. Amend the introductory paragraph of RSA 399-A:4, I to read as follows:

I. Every applicant for licensing under this chapter shall file with the commissioner a written verified application ***through the Nationwide Multistate Licensing System and Registry, using the Nationwide Multistate Licensing System and Registry form, or providing all the information required on the application***

***developed by the Nationwide Multistate Licensing System and Registry which shall include, but is not limited to, the following information***~~[on a form prescribed by the commissioner. The application shall contain]:~~

36:21 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Application. Amend the introductory paragraph of RSA 399-A:4, VI to read as follows:

VI. Every applicant for licensing under this chapter shall file with the commissioner~~[in such form as the commissioner prescribes by rule,]~~ irrevocable consent appointing the commissioner to receive service of any lawful process in any non criminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous application need not file another. When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but shall not be effective unless:

36:22 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Continuing Obligation to Update. Amend RSA 399-A:9, V to read as follows:

V. ~~[As defined by rule, certain]~~ Significant events shall be reported to the department in writing within 10 calendar days.

36:23 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Provisions Applicable to All Persons. Amend RSA 399-A:15, VII to read as follows:

VII. A note, agreement, or promise to pay shall contain: (a) the date; (b) a schedule or description of the payments to be made thereon; (c) the agreed charges or rate of charge; and (d) the amount of the note in a closed end loan or the maximum credit line in an open end loan. ~~[No person shall take any note, agreement, or promise to pay in which blanks are left to be filled in after the loan is made.]~~

36:24 New Paragraphs; Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Provisions Applicable to All Persons. Amend RSA 399-A:15 by inserting after paragraph XXIV the following new paragraphs:

XXV. No person subject to this chapter shall instruct, solicit, propose, or cause a person to sign another's signature on any document without legal authority.

XXVI. No person subject to this chapter shall solicit, accept, or execute any contract or other document related to any transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information or as otherwise expressly provided in this chapter.

36:25 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Payday Loan Lenders. Amend RSA 399-A:17, XVI to read as follows:

XVI. Before entering into a payday loan, the payday loan lender shall provide each borrower with a pamphlet~~[in form consistent with regulations adopted by the commissioner,]~~ explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number in the banking department for assistance with complaints. ***The commissioner may prescribe the form of the pamphlet by rule.***

36:26 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans; Powers of the Commissioner. Amend RSA 399-A:20, II to read as follows:

II. The commissioner ~~[shall]~~ ***may*** adopt rules, pursuant to RSA 541-A, relative to the administration and enforcement of this chapter.

36:27 New Paragraph; Pawnbrokers and Money Lenders; Debt Adjustment Services; Definitions. Amend RSA 399-D:1 by inserting after paragraph XXVIII the following new paragraph:

XXIX. "Significant event" means:

- (a) Filing for bankruptcy or reorganization;
- (b) Criminal felony indictment or conviction of any of the licensee's principals;
- (c) Receiving notification of a license denial, cease and desist, consent agreement or order, suspension, or revocation, or any other formal administrative action in any state against the licensee;

(d) Receiving notification of any enforcement action or investigation by the attorney general of the state of New Hampshire or of any other state pursuant to any consumer protection statute, and the reasons thereof, except routine investigations of consumer complaints; or

(e) Entering into a consent agreement, settlement agreement, memorandum of understanding, or similar agreement with any regulatory body pertaining to the licensee's practices.

36:28 Pawnbrokers and Money Lenders; Debt Adjustment Services; Application and Fees. Amend the introductory paragraph of RSA 399-D:4, I(a) to read as follows:

(a) To be considered for licensing, each person shall complete and file with the department one verified application ***through the Nationwide Multistate Licensing System and Registry, using the Nationwide Multistate Licensing System and Registry form, or providing all the same information required on the application developed by using the Nationwide Multistate Licensing System and Registry, which shall include, but not be limited to, the following information*** ~~[prescribed by the commissioner by rule. At a minimum, the application shall include]:~~

36:29 Pawnbrokers and Moneylenders; Debt Adjustment Services; Application and Fees. Amend the introductory paragraph of RSA 399-D:4, II(e) to read as follows:

(e) The application shall include a financial statement that shall be prepared in accordance with generally accepted accounting principles with appropriate note disclosures ~~[and, unless excepted by an order from the commissioner for hardship reasons, shall be audited by an independent certified public accountant]~~. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge. Financial statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under this chapter.

36:30 Pawnbrokers and Money Lenders; Debt Adjustment Services; Application and Fees. Amend the introductory paragraph of RSA 399-D:4, V to read as follows:

V. Every applicant for licensing under this chapter shall file with the commissioner~~[in such form as the commissioner prescribes by rule,]~~ irrevocable consent appointing the commissioner to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous application need not file another. When any person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or by any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

36:31 Pawnbrokers and Moneylenders; Debt Adjustment Services; Continuing Obligation to Update. Amend RSA 399-D:8, V to read as follows:

V. ~~[As defined by rule, certain]~~ Significant events shall be reported to the department in writing within 10 calendar days.

36:32 Pawnbrokers and Moneylenders; Debt Adjustment Services; Prohibitions; Fraud and Dishonesty. Amend RSA 399-D:13, II(a) and (b) to read as follows:

(a) Make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect; ~~[or]~~

(b) In connection with such statement, omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading~~[-];~~

***(c) Instruct, solicit, propose, or cause a person to sign another's signature on any document without legal authority; or***

***(d) Solicit, accept, or execute any contract or other document related to any transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms***

***authorizing the verification of application information or as otherwise expressly provided in this chapter.***

36:33 Pawnbrokers and Moneylenders; Debt Adjustment Services; Provisions Applicable to All. Amend the introductory paragraph of RSA 399-D:14, II to read as follows:

II. Such contract shall include ***the following*** ~~[such]~~ information ~~[as the commissioner prescribes by rule, including but not limited to]:~~

36:34 Pawnbrokers and Moneylenders; Debt Adjustment Services; Provisions Applicable to All. Amend RSA 399-D:14, II(f) and (g) to read as follows:

(f) A cancellation provision; ~~[and]~~

(g) A prepayment provision, as applicable~~[-]; and~~

***(h) Other information the commissioner may prescribe by rule.***

36:35 Pawnbrokers and Moneylenders; Debt Adjustment Services; Powers of the Commissioner. Amend RSA 399-D:18, II to read as follows:

II. The commissioner ~~[shall]~~ ***may*** adopt rules, pursuant to RSA 541-A, relative to the administration and enforcement of this chapter.

36:36 Pawnbrokers and Moneylenders; Cash Dispensing Machines; Definitions. Amend RSA 399-F:1, II(b) to read as follows:

(b) Does not mean a point-of-sale device ***that is used in the purchase of goods or services to capture data electronically in order to debit or credit a customer's asset account*** ~~[as defined by the commissioner pursuant to RSA 384-B:7].~~

36:37 New Paragraph; Pawnbrokers and Moneylenders; Cash Dispensing Machines; Notice. Amend RSA 399-F:3 by inserting after paragraph VI the following new paragraph:

VII. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.

36:38 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Definitions. Amend RSA 399-G:1, X to read as follows:

X. "Direct owner" means any person, including ~~an [individuals]~~ ***individual***, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

36:39 New Paragraph; Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Definitions. Amend RSA 399-G:1 by inserting after paragraph XXIV the following new paragraph:

XXIV-a. "Significant event" means:

(a) Filing for bankruptcy or reorganization;

(b) Criminal felony indictment or conviction of any of the licensee's principals;

(c) Receiving notification of a license denial, cease and desist, consent agreement or order, suspension, or revocation, or any other formal administrative action in any state against the licensee;

(d) Receiving notification of any enforcement action or investigation by the attorney general of the state of New Hampshire or of any other state pursuant to any consumer protection statute, and the reasons thereof, except routine investigations of consumer complaints; or

(e) Entering into a consent agreement, settlement agreement, memorandum of understanding, or similar agreement with any regulatory body pertaining to the licensee's practices.

36:40 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Application and Fees. Amend the introductory paragraph of RSA 399-G:4, I(a) to read as follows:

(a) To be considered for licensing, each person shall complete and file with the department one verified application ***through the Nationwide Multistate Licensing System and Registry, using the Nationwide Multistate Licensing System and Registry form, or providing all the same information required on the application developed by the Nationwide Multistate Licensing System and Registry, which shall include but not be limited to the following information*** ~~[prescribed by the commissioner by rule. At a minimum, the application shall include]:~~

36:41 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Application and Fees. Amend RSA 399-G:4, II(b) to read as follows:

(b) Each license application shall be accompanied by a nonrefundable application fee of \$500 for the principal office. Within 30 days from the start of money transmission activity for the licensee at each authorized delegate location, a fee of \$25 shall be paid to and received by the department for each authorized delegate registration~~[, up to a total maximum annual fee of \$5,000 for all locations]~~. Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

36:42 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Application and Fees. Amend the introductory paragraph of RSA 399-G:4, V to read as follows:

V. Every applicant for licensing under this chapter shall file with the commissioner~~[, in such form as the commissioner prescribes by rule,]~~ irrevocable consent appointing the commissioner to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous application need not file another. When any person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or by any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

36:43 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; License and Registration Grant and Renewal. Amend the introductory paragraph of RSA 399-G:5, IX to read as follows:

IX. A renewal fee~~[, up to a maximum annual fee of \$5,000,]~~ shall be submitted with the application for renewal as follows:

36:44 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; License Surrender. Amend RSA 399-G:8, I to read as follows:

I. A licensee who ceases to engage in the business of money transmission at any time during a license year for any cause shall surrender such principal license and authorized delegate registrations, if any, and within 15 calendar days of such cessation shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect, and shall file an annual report pursuant to RSA 399-G:10 within 15 days of such cessation. The commissioner ~~[shall]~~ **may** adopt rules, in accordance with RSA 541-A, relative to such notice and the process for surrender.

36:45 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Continuing Obligation to Update. Amend RSA 399-G:9, V to read as follows:

V. ~~[As defined by rule, certain]~~ Significant events shall be reported to the department in writing within 10 calendar days.

36:46 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Reporting and Filing Requirements. Amend the introductory paragraph of RSA 399-G:10, VI to read as follows:

VI. A document is filed when it is received by the commissioner. ***If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.*** Electronic filings, when received by the commissioner, are:

36:47 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Record Keeping Requirements. Amend RSA 399-G:11, I(a) to read as follows:

(a) The licensee shall maintain such records as will enable the department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted pursuant to this chapter. Such records shall be maintained for a period of at least 5 years or longer if the commissioner prescribes a period by rule. ~~[and]~~ ***Records shall be*** made available for examination at the licensee's principal office, or its authorized delegate location, or the office of its New Hampshire registered agent. Licensees may maintain electronic, photocopied, microfilm, or microfiche copies of original documents.

36:48 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Record Keeping Requirements. Amend RSA 399-G:11, III to read as follows:

III. A licensee shall keep and use business records in such form and at such location as the commissioner ~~[shall]~~ **may** by rule determine. The **licensee shall maintain such** records ~~[shall]~~ **to** enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules **the commissioner may** ~~[adopted]~~ **adopt** under it, and any other law~~[-rule,]~~ or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. ~~[Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.]~~

36:49 New Paragraphs; Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Prohibitions. Amend RSA 399-G:14 by inserting after paragraph II the following new paragraphs:

III. It is unlawful to instruct, solicit, propose, or cause a person to sign another's signature on any document without legal authority.

IV. It is unlawful to solicit, accept, or execute any contract or other document related to any transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information or as otherwise expressly provided in this chapter.

36:50 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Net Worth Requirements. Amend RSA 399-G:16 to read as follows:

399-G:16 Net Worth Requirements. An applicant or licensee shall at all times maintain a net worth of the lesser of its average daily outstanding money transmissions for the prior calendar year or \$1,000,000. **Each licensee shall file a statement of net worth pursuant to RSA 399-G:10, II(e).**

36:51 Repeal. The following are repealed:

I. RSA 397-A:5, IV-c(a)(3), relative to the license application for nondepository bankers, brokers, and servicers.

II. RSA 399-D:13, III(c), relative to executing incomplete contracts of agreements.

36:52 Effective Date. This act shall take effect upon its passage.

Approved: May 15, 2019

Effective Date: May 15, 2019