

HB 312 - AS AMENDED BY THE HOUSE

7Apr2021... 0093h

2021 SESSION

21-0548  
11/06

HOUSE BILL **312**

AN ACT relative to deadlines in consumer credit applications, licensing requirements for mortgage loan originators, examinations of family trust companies, delegation by credit union boards to committees, qualifications of the banking commissioner, and authorizing depository banks to elect benefit corporation status.

SPONSORS: Rep. Hunt, Ches. 11

COMMITTEE: Commerce and Consumer Affairs

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ANALYSIS

This bill:

- I. Clarifies and extends deadlines in consumer credit examinations applicable to certain entities licensed by the banking department.
- II. Clarifies the home state licensing requirement for mortgage loan originators.
- III. Provides that family trust companies may be examined more frequently than every 36 months if the commissioner deems it necessary.
- IV. Clarifies that depository banks may elect RSA 293-C benefit corporation status.
- V. Establishes requirements applicable to credit union boards who delegate to committees.
- VI. Adjusts restrictions on loans and other financial transactions that disqualify the commissioner or deputy commissioner from serving in his or her role.

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 struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Twenty One*

AN ACT relative to deadlines in consumer credit applications, licensing requirements for mortgage loan originators, examinations of family trust companies, delegation by credit union boards to committees, qualifications of the banking commissioner, and authorizing depository banks to elect benefit corporation status.

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

1 Retail Installments of Motor Vehicles; Examinations. Amend RSA 361-A:6-a, II to read as follows:

II.(a) The affairs and records of every sales finance company licensee or person shall be subject at any time to periodic, special, regular, or other examination by the banking department with or without notice to the licensee or person. Those licensees or persons, ***including those*** that maintain their files and business documents in another state, shall ~~[appoint a New Hampshire agent and shall return such files and documents to such agent, or to their principal New Hampshire office, or to the banking department for examination no later than 21 calendar days after being requested to do so by the banking department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21 day requirement.]:~~

***(1) Deliver to the commissioner a list of all New Hampshire consumers who have contracted with the licensee or with whom the licensee is otherwise engaged in business regulated under this chapter, and other requested lists summarizing the business of the licensee, within 7 days of receipt of the request; and***

***(2) Deliver to the commissioner files selected by the commissioner from the list delivered in subparagraph (a)(1), and any other files or documents requested, within 21 days of receipt of the request.***

***(b)*** Failure to provide files ~~[and]~~ ***or*** documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day ~~[after 21 days]~~ the files ~~[and]~~ ***or*** documents are not produced. Failure to provide files ~~[and]~~ ***or*** documents ***to the commissioner*** within 60 days after ~~[being requested to do so by the banking department]~~ ***receipt of the request*** shall be sufficient cause for license revocation, suspension, or denial.

2 Nondepository Mortgage Bankers, Brokers, and Servicers; Examinations. Amend RSA 397-A:12, IV to read as follows:

IV. ~~[When a licensee is requested to provide files or business records to the office of the department, such material must be received no later than 21 calendar days from receipt of request. When the department requests a loan list or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the department within 7 calendar days, and provide the files selected by the department to the department within 14 calendar days to ensure compliance with the 21-day requirement.]:~~ ***(a) Licensees shall:***

***(1) Deliver to the commissioner a list of all New Hampshire consumers who have contracted with the licensee or with whom the licensee is otherwise engaged in business regulated under this chapter, and other requested lists summarizing the business of the licensee within 7 days of receipt of the request; and***

***(2) Deliver to the commissioner files selected by the commissioner from the list delivered in subparagraph (a)(1), and any other files or documents requested, within 21 days of receipt of the request.***

***(b)*** Failure to provide files ~~[and]~~ ***or*** documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day ~~[after 21 days]~~ the files ~~[and]~~ ***or*** documents are not produced. Failure to provide files ~~[and]~~ ***or*** documents within 60 days after ~~[being requested to do so by the department]~~ ***receipt of the request*** shall be sufficient cause for license revocation, suspension, or denial.

3 Regulation of Small Loans; Title Loans; and Payday Loans; Examinations and Investigations. Amend RSA 399-A:13, VI to read as follows:

VI.(a) Those licensees or persons, ***including those*** that maintain their files and business documents in another state shall ~~[appoint a New Hampshire agent and shall return such files and documents to their principal New Hampshire office, the banking department, or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21-day requirement.]:~~

***(1) Deliver to the commissioner a list of all New Hampshire consumers who have contracted with the licensee or with whom the licensee is otherwise engaged in business regulated under this chapter, and other requested lists summarizing the business of the licensee, within 7 days of receipt of the request; and***

**(2) Deliver to the commissioner files selected by the commissioner from the list delivered in subparagraph (a)(1), and any other files or documents requested, within 21 days of receipt of the request.**

(b) Failure to provide files ~~[and]~~ **or** documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day ~~[after 21 days]~~ the files ~~[and]~~ **or** documents are not produced. Failure to provide files ~~[and]~~ **or** documents within 60 days after ~~[being requested to do so by the department]~~ **receipt of the request** shall be sufficient cause for license revocation, suspension, or denial, or other penalties under this chapter.

4 Debt Adjustment Services; Examinations and Investigations. Amend RSA 399-D:12, VI to read as follows:

VI.(a) Those licensees or persons, **including those** that maintain their files and business documents in another state shall ~~[appoint a New Hampshire agent and shall return such files and documents to their principal New Hampshire office, the banking department, or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and shall return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21-day requirement.]:~~

**(1) Deliver to the commissioner a list of all New Hampshire consumers who have contracted with the licensee or with whom the licensee is otherwise engaged in business regulated under this chapter, and other requested lists summarizing the business of the licensee, within 7 days of receipt of the request; and**

**(2) Deliver to the commissioner files selected by the commissioner from the list delivered in subparagraph (a)(1), and any other files or documents requested, within 21 days of receipt of the request.**

(b) Failure to provide files ~~[and]~~ **or** documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day ~~[after 21 days]~~ that the files ~~[and]~~ **or** documents are not produced.

Failure to provide files ~~[and]~~ **or** documents within 60 days after ~~[being requested to do so by the department]~~ **receipt of the request** shall be sufficient cause for license revocation, suspension, or denial, or other penalties under this chapter.

5 New Paragraph; Licensing of Money Transmitters; Examinations and Investigations. Amend RSA 399-G:13 by inserting after paragraph V the following new paragraph:

V-a. Those licensees or persons, including those that maintain their files and business documents in another state, shall deliver to the commissioner any files or documents requested, within 28 days of receipt of the request. Failure to provide files or documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day the files or documents are not produced. Failure to provide files or documents within 60 days after receipt of the request shall be sufficient cause for license revocation, suspension, or denial, or other penalties under this chapter.

6 Nondepository Mortgage Bankers, Brokers, and Servicers; License Application; Requirements; Investigation. Amend RSA 397-A:5, VIII to read as follows:

VIII. A license shall not be issued and effective unless the applicant or licensee is licensed or registered in ~~[the licensee's or applicant's home state, which in the case of an organization is]~~ the state where its principal office is located ~~[and in the case of an individual is the state from which the individual primarily conducts mortgage business]~~. **This paragraph shall not apply to a mortgage loan originator.**

7 Family Trust Company Act; Examination. Amend RSA 383-D:11-1101(a) to read as follows:

(a) The commissioner shall examine a family trust company every 36 months, **or more often when necessary in his or her judgment.**

8 New Subparagraph; Banks and Credit Unions; Enforcement; Definitions. Amend RSA 383-A:2-201(a) by inserting after subparagraph (37) the following new subparagraph:

(37-a) "New Hampshire Benefit Corporation Act" means RSA 293-C or any replacement or successor New Hampshire statutes.

9 Banks and Credit Unions; Enforcement; Definitions; Organizations Act. Amend RSA 383-A:2-201(a)(41) to read as follows:

(41) "Organizations Act" means ~~[either]~~ the Corporation Act **and the New Hampshire Benefit Corporation Act, if applicable**, or the LLC Act; and "Organizations Acts" means the Corporation Act **and the New Hampshire Benefit Corporation Act, if applicable**, and the LLC Act.

10 Organization of State Banks; Type of Entity; Conversion. Amend RSA 383-A:3-303(a) to read as follows:

(a) A state bank may be organized as a corporation under the Corporation Act or as a limited liability company under the LLC Act. ***A depository bank organized as a corporation may elect benefit corporation status in accordance with the New Hampshire Benefit Corporation Act.***

11 New Paragraph; Credit Union Act; Responsibilities of Directors and Officers. Amend RSA 383-E:5-506 by inserting after paragraph (b) the following new paragraph:

(c) Subject to its oversight and any limitation set forth in the organizational documents or this chapter, the board of directors of a credit union may create one or more committees, delegate to each committee any powers and duties that the board of directors deems appropriate, and appoint one or more directors, officers, and other natural persons to serve on each committee. The following requirements shall apply to any committee so created:

(1) Each member of a committee shall be subject to the same standards of conduct to which a director is subject in accordance with this section;

(2) Each committee shall keep minutes of its activities and shall report to the board of directors as frequently as the board of directors requires; and

(3) The creation of, delegation of power or duties to, or action by a committee does not alone constitute a director's compliance with the standards of conduct as set forth in this section.

12 Bank Commissioner; Qualifications. Amend RSA 383:6 to read as follows:

383:6 Qualifications. No person who is not a resident of the state at the time of his or her appointment or who fails to become a resident of the state within one year after his or her appointment, and no person who is indebted to any entity under the supervision of the commissioner, or who holds any stock or office in the entity, or who is engaged as principal or agent in the business of selling or negotiating loans, stocks, or securities of any kind in this state, or who is an officer or stockholder in any entity engaged in that business, shall be eligible to hold or continue to hold the office of commissioner or deputy commissioner. The provisions of this section relative to indebtedness to an entity under the supervision of the commissioner shall not disqualify a person who ~~[at the time of his or her appointment,]~~ is indebted to the entity for ~~[a home mortgage loan, or if at a time subsequent to his or her appointment a legal transfer of the loan or conversion of an entity results in the loan being held by an entity under the supervision of the commissioner or deputy commissioner, provided that the indebtedness shall be limited to such pre-existing contracts:]~~ ***a residential mortgage loan, car loan, or other secured personal loan if such indebtedness is subject to customary terms and conditions and transacted in the normal course of business. The provisions of this section relative to stock shall not disqualify a person who holds investments in shares of regulated diversified investment companies.***

13 Repeal. RSA 399-G:11, II, relative to record keeping requirements for licensed money transmitters, is repealed.

14 Effective Date. This act shall take effect 60 days after its passage.