

CHAPTER 196
HB 1687 - FINAL VERSION

6Mar2018... 0463h

2018 SESSION

18-2504

03/08

HOUSE BILL 1687

AN ACT relative to banking and consumer credit.

SPONSORS: Rep. Biggie, Hills. 23

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill clarifies the applicability of various banking and consumer credit laws and makes technical corrections.

This bill was requested by the banking department.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to banking and consumer credit.

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

196:1 Retail Installment Sales of Motor Vehicles; Definitions; Seller. Amend RSA 361-A:1, XII to read as follows:

XII. "Retail seller" or "seller" means a person who sells a motor vehicle in this state [~~or to a retail buyer under or~~] subject to a retail installment contract.

196:2 Retail Installment Sales of Motor Vehicles; Advertising. Amend RSA 361-A:10-a, II to read as follows:

II. [~~Advertising files shall be subject to review by the banking department during the course of any~~] ***As part of an examination or investigation undertaken in accordance with this chapter, the banking department may review any advertisement described in paragraph I within 3 years of the date the advertisement is advertised, printed, displayed, published, distributed, or broadcast.***

196:3 Mortgage Bankers, Brokers, and Servicers; Clerical or Support Duties. Amend RSA 397-A:1, XI-a(b)(1) to read as follows:

(1) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; [~~and~~] ***or***

196:4 Mortgage Bankers, Brokers, and Servicers; Reporting Significant Events. 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 ~~[calendar]~~ days.

196:5 Mortgage Bankers, Brokers, and Servicers; Prohibited Lending Practices. Amend RSA 397-A:14, IV(d) to read as follows:

(d) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this **or any other** chapter without a valid license as required under this chapter;

196:6 Small, Title, and Payday Loans; Definitions; Lender. Amend RSA 399-A:1, XII(e) to read as follows:

(e) Acts as a credit services organization as defined in RSA 359-D:2, ~~[H]~~ **II(a)(2)**.

196:7 Small, Title, and Payday Loans; Interest. Amend RSA 399-A:15, IV to read as follows:

IV. No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and interest shall be computed only on unpaid principal balances. ~~[For the purpose of computing interest, whether at the maximum rate or less, a month shall be considered a calendar month and, where a fraction of a month is involved, a day shall be considered 1/30 of a month. However,]~~ If all or any part of the consideration for a loan contract is the unpaid principal balance of the prior loan with the same lender then the loan contract may include unpaid interest of such prior loan which has accrued within 60 days of the making of the loan contract.

196:8 Small, Title, and Payday Loans; Contents of Note, Agreement or Promise. Amend RSA 399-A:15, VII to read as follows:

VII. ~~[No person shall take any note, agreement, or promise to pay which does not disclose the date and amount or maximum credit line of the note or agreement, a schedule or description of the payments to be made thereon, and the agreed charges or rates of charge; nor take any instrument in which blanks are left to be filled in after the loan is made.]~~ **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.**

196:9 Small, Title, and Payday Loans; Payment Book. Amend RSA 399-A:15, XVI(a) to read as follows:

(a) At the time of the making a loan, mail or deliver to the borrower, or if more than one, to one of them, a payment book in which space shall be provided for the record of all payments showing principal, interest, and balance. The payment book shall contain statements showing the date of such loan, the amount of the principal of such loan, the total interest charged for the period of such loan, the nature of the security, if any, for such loan, the name and address of the borrower and of the lender, and the description of schedule of payments on such loans. ~~[The payment book shall also contain an interest calculation such as the following:~~

~~"Interpretation of Interest Charges in the Event Payments are Made when Due.~~

~~2% per month = 24% per year or \$13.47 per year on \$100~~

~~1 1/2% per month = 18% per year or \$10.01 per year on \$100"~~

Provided, however, a lender may provide a borrower with a monthly billing statement in lieu of a payment book and the information required above.

196:10 Small, Title, and Payday Loans; Total Principal on Small Loans. Amend RSA 399-A:16, III to read as follows:

III. No small loan lender shall permit any person to be obligated to him or her on ~~[one or more contracts of loan]~~ **multiple small loans** the total principal balance of which is more than \$10,000.

196:11 Debt Adjustment Services; Obsolete References Deleted. Amend RSA 399-D:1, IX(f) to read as follows:

(f) Any person that serves as an intermediary between a debtor and one or more creditors of the debtor for the purpose of obtaining concessions.

(1) An intermediary includes but is not limited to any person that:

(A) Engages in the business of mortgage loan loss mitigation; and

(B) Is not subject to RSA 397-A ~~[or RSA 397-B]~~.

(2) An intermediary does not include any person specifically exempted pursuant to RSA 397-A:4 ~~[or RSA 397-B:10]~~.

196:12 Debt Adjustment Services; Obsolete Reference Deleted. Amend RSA 399-D:1, XIX to read as follows:

XIX. "Financial institution" means a bank, savings institution, credit union, trust company, or a person licensed under RSA 361-A, RSA 397-A, ~~RSA 397-B,~~ or RSA 399-A.

196:13 Money Transmitters. Amend RSA 399-G: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 ~~[form]~~ **from** the commissioner for hardship reasons, shall be audited by an independent certified public accountant. An applicant's financial statement shall include a balance sheet, income statement, statement of changes in owners' equity, cash flow statement, and statement of net worth.

196:14 References Changed. Amend RSA 397-A by replacing all references to "Nationwide Mortgage Licensing System" with "Nationwide Multistate Licensing System."

196:15 Repeal. RSA 359-D:2, II(b)(7), relative to exclusions from the credit services organization definition, is repealed.

196:16 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 08, 2018

Effective Date: August 07, 2018