
Committee Report

CONSENT CALENDAR

March 14, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred HB 450,**

**AN ACT relative to examinations conducted by the
banking department. Having considered the same,
report the same with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. Greg Indruk

FOR THE COMMITTEE

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 450, relative to examinations conducted by the banking department. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Greg Indruk for Commerce and Consumer Affairs. This bill is at the request of the Banking Department. The bill clarifies language related to examinations by the Bank Commissioner of certain regulated entities, including where such exams will be noticed and how the department is reimbursed for costs incurred by conducting such exams. The amendment adjusts language related to exams conducted outside New Hampshire and clarifies the commissioner's discretion with regard to intervals between exams for certain entities. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

Committee Report

Committee: Commerce and Consumer Affairs

Bill: HB 450

Hearing Date: February 12, 2019

OTPA: 20-0

Report:

Greg Indruk for the Commerce Committee. This bill is at the request of the banking department. The bill clarifies language related to bank commissioner examinations of certain regulated entities, including where such exams will be noticed and how the department is reimbursed for costs incurred conducting such exams. The amendment adjusts language related to exams conducted outside New Hampshire and clarifies the commissioner's discretion with regard to intervals between exams for certain entities. Unanimous 20-0 OTPA.

OK

Sub

Amendment to HB 450

1 Amend the bill by replacing sections 2-4 with the following:

2

3 2 Banks and Banking; Bank Commissioner; Duties. Amend RSA 383:9, V to read as follows:

4 V. The commissioner may conduct an examination or investigation during business hours,
5 *at the commissioner's office by consent or by subpoena, or* at any location of the entity's
6 operations, including any place where assets are located or where records are made, posted, or kept.
7 The commissioner shall have the power to conduct [~~such~~] an examination or investigation outside
8 the state of New Hampshire and outside the United States and its territories. *Notice of any*
9 *examination may be provided to the entity's main or principal office or, for a trust*
10 *company or family trust company, to any executive officer of the trust company or family*
11 *trust company.*

12 3 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
13 Companies, and Family Trust Companies. Amend RSA 383:9-d, IV to read as follows:

14 IV. The commissioner shall examine the condition and management of all consumer credit
15 licensees as required by law, every [~~18~~] **24** months, or more often when necessary in his or her
16 judgment. In lieu of his or her own report, the commissioner may accept a report of a federal or
17 state regulator or group of regulators with authority to conduct a similar type of examination of the
18 entity.

19 4 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
20 Companies, and Family Trust Companies. Amend RSA 383:9-d, VI to read as follows:

21 VI. In no event shall a licensee be examined less than every [~~36~~] **48** months.

22

23 Amend the bill by replacing section 10 with the following:

24

25 10 Banks and Banking; Bank and Credit Union Regulation and Enforcement; Annual Audits;
26 Reports. Amend RSA 383-A:5-509(c) to read as follows:

27 (c) Each state bank or credit union shall direct its auditor to provide, and the auditor
28 shall provide, the commissioner with a copy of its audit report, within 60 days after each is made
29 available to the state bank or credit union. All reports, memoranda, and correspondence [~~remain~~
30 ~~the property of the individual state bank or credit union~~] *shall be confidential in accordance*
31 *with RSA 383:10-b.*

32

1 Amend the bill by replacing section 12 with the following:

2

3 12 Banks and Banking; Trust Company Act; Offices; Examination of Out-of-State Offices.

4 Amend RSA 383-C:7-704 to read as follows:

5 383-C:7-704 Examination of Out-of-State Trust Offices. The commissioner may enter into
6 agreements with any regulatory authority having jurisdiction to examine out-of-state trust offices of
7 trust companies. For those examinations, [~~a trust company shall pay (i) an examination fee~~
8 ~~calculated in accordance with RSA 383:11, I, and (ii) the actual cost of travel, lodging, meals, and~~
9 ~~other expenses of examination personnel employed in making examinations under this section]~~ *the*
10 *cost shall be the same as that provided in RSA 383:11.*

11

12 Amend RSA 383-C:14-1401, I as inserted by section 13 of the bill by replacing it with the following:

13

14 I. Subject to RSA 383-C:14-1402, the commissioner shall examine the condition and
15 management of a trust company every 18 months, *or more often when necessary in his or her*
16 *judgment.*

17

18 Amend the bill by replacing all after section 19 with the following:

19

20 20 Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies.

21 Amend RSA 383:9-d, V(a) to read as follows:

22 (a) The licensee has consistently had examinations with few or no cited violations of law
23 *or has not conducted significant business in the state during the exam period;*

24 21 Effective Date.

25 I. Sections 1, 7, 11, 12, 15, 16, 18, and 19 of this act shall take effect 60 days after its
26 passage.

27 II. The remainder of this act shall take effect upon its passage.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 450

BILL TITLE: relative to examinations conducted by the banking department.

DATE: March 8, 2019

LOB ROOM: 302

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Indruk Seconded by: Rep. Schulz AM Vote: 20-0

Amendment # 2019-0681h

Moved by Rep. Indruk Seconded by: Rep. Schulz Vote: 20-0

C

ONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Constance Van Houten, Acting Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 450

BILL TITLE: relative to examinations conducted by the banking department.

DATE: 3-8-19

LOB ROOM: 302

MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of Amendment # 2019 - 0681h (if offered)
 Interim Study (2nd year)

Moved by Rep. Fudruk Seconded by Rep. Schultz Vote: 20-0

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)
 Interim Study (2nd year)

Moved by Rep. Fudruk Seconded by Rep. Schultz Vote: 20-0

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)
 Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)
 Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion: _____

Respectfully submitted: Constance Van Hater
Rep Rebecca McBeath, Clerk



2019 SESSION

Commerce and Consumer Affairs

Bill #: 450 Motion: Adoption AM #: 2019-0681h Exec Session Date: 3/8/2019

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	X		
Williams, Kermit R. Vice Chairman	X		
Gidge, Kenneth N. <i>Schutz</i>	X		
Abel, Richard M.	X		
McBeath, Rebecca Susan Clerk <i>Rung</i>	X		
Bartlett, Christy D.	X		
Herbert, Christopher J.	X		
Van Houten, Constance	X		
Fargo, Kristina M. <i>McConnell</i>	X		
Indruk, Greg L.	X		
Muscatel, Garrett D.	X		
Weston, Joyce	X		
Hunt, John B.	X		
Saarnorn, Laurie J. <i>BURNS</i>	X		
Osborne, Jason M.	X		
Costable, Michael	X		
Plumer, John R.	X		
Barnes, Arthur E.	X		
Potucek, John M.	X		
Warden, Mark <i>Spilone</i>	X		
TOTAL VOTE: <u>20-0</u>			



2019 SESSION

Commerce and Consumer Affairs

Bill #: ~~HB 889 PM~~ ^{HB 450} Motion: OTPA AM #: ~~0681h~~ ²⁰¹⁹⁻ Exec Session Date: 3-8-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	X		
Williams, Kermit R. Vice Chairman	X		
Gidge, Kenneth N. ^{SCHULTZ}	X		
Abel, Richard M.	X		
McBeath, Rebecca Susan Clerk ^{Rung}	X		
Bartlett, Christy D.	X		
Herbert, Christopher J.	X		
Van Houten, Constance	X		
Fargo, Kristina M. ^{Ryanne McConnell}	X		
Indruk, Greg L.	X		
Muscatel, Garrett D.	X		
Weston, Joyce	X		
Hunt, John B.	X		
Sanborn, Laurie J. ^{BURNS}	X		
Osborne, Jason M.	X		
Costable, Michael	X		
Plumer, John R.	X		
Barnes, Arthur E.	X		
Potucek, John M.	X		
Warden, Mark ^{SPILLANE}	X		
TOTAL VOTE: 20-0			

Amendment to HB 450

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4 V. The commissioner may conduct an examination or investigation during business hours,
5 *at the commissioner's office by consent or by subpoena, or* at any location of the entity's
6 operations, including any place where assets are located or where records are made, posted, or kept.
7 The commissioner shall have the power to conduct [~~such~~] an examination or investigation outside
8 the state of New Hampshire and outside the United States and its territories. *Notice of any*
9 *examination may be provided to the entity's main or principal office or, for a trust*
10 *company or family trust company, to any executive officer of the trust company or family*
11 *trust company.*

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13 Companies, and Family Trust Companies. Amend RSA 383:9-d, IV to read as follows:

14 IV. The commissioner shall examine the condition and management of all consumer credit
15 licensees as required by law, every [~~18~~] **24** months, or more often when necessary in his or her
16 judgment. In lieu of his or her own report, the commissioner may accept a report of a federal or
17 state regulator or group of regulators with authority to conduct a similar type of examination of the
18 entity.

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21 VI. In no event shall a licensee be examined less than every [~~36~~] **48** months.

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23 Amend the bill by replacing section 10 with the following:

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25 10 Banks and Banking; Bank and Credit Union Regulation and Enforcement; Annual Audits;
26 Reports. Amend RSA 383-A:5-509(c) to read as follows:

27 (c) Each state bank or credit union shall direct its auditor to provide, and the auditor
28 shall provide, the commissioner with a copy of its audit report, within 60 days after each is made
29 available to the state bank or credit union. All reports, memoranda, and correspondence [~~remain~~
30 ~~the property of the individual state bank or credit union~~] *shall be confidential in accordance*
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Amendment to HB 450

- Page 2 -

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6 agreements with any regulatory authority having jurisdiction to examine out-of-state trust offices of
7 trust companies. For those examinations, ~~[a trust company shall pay (i) an examination fee~~
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10 *cost shall be the same as that provided in RSA 383:11.*

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12 Amend RSA 383-C:14-1401, I as inserted by section 13 of the bill by replacing it with the following:

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14 I. Subject to RSA 383-C:14-1402, the commissioner shall examine the condition and
15 management of a trust company every 18 months, *or more often when necessary in his or her*
16 *judgment.*

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18 Amend the bill by replacing all after section 19 with the following:

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20 20 Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies.

21 Amend RSA 383:9-d, V(a) to read as follows:

22 (a) The licensee has consistently had examinations with few or no cited violations of law
23 *or has not conducted significant business in the state during the exam period;*

24 21 Effective Date.

25 I. Sections 1, 7, 11, 12, 15, 16, 18, and 19 of this act shall take effect 60 days after its
26 passage.

27 II. The remainder of this act shall take effect upon its passage.

Sub-Committee Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 450

BILL TITLE: relative to examinations conducted by the banking department.

DATE: February 21, 2019

Subcommittee Members: Reps. Williams and Indruk, Butler plus ??

Comments and Recommendations: #0681h

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Williams Secoded by Rep. Indruk AM Vote: 7-0

Amendment # 2019-0681h

Moved by Rep. Williams Secoded by Rep. Indruk Vote: 7-0

Respectfully submitted,

Rep. Edward Butler
Subcommittee Chairman

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 450

BILL TITLE: relative to examinations conducted by the banking department.

DATE: 2-21-19/2-26-19

Subcommittee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Comments and Recommendations:

068/h

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Wmo Seconded by Rep. Indruk AM Vote: 7-0

Adoption of Amendment #

Moved by Rep. Indruk Seconded by Rep. Wm. Vote: 7-0

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Seconded by Rep. AM Vote:

Adoption of Amendment #

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. [Signature] Subcommittee Chairman/Clerk

Amendment to HB 450

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28 shall provide, the commissioner with a copy of its audit report, within 60 days after each is made
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18 Amend the bill by replacing all after section 19 with the following:

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24

21 Effective Date.

25

26 I. Sections 1, 7, 11, 12, 15, 16, 18, and 19 of this act shall take effect 60 days after its
26 passage.

27

II. The remainder of this act shall take effect upon its passage.

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 450

BILL TITLE: relative to examinations conducted by the banking department.

DATE: February 12, 2019

LOB ROOM: 302 **Time Public Hearing Called to Order:** 10:05 AM

Time Adjourned: 10:38 AM

Committee Members: Reps. Butler, Williams, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Plumer, Potucek and Warden

Bill Sponsors:

Rep. Luneau

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Todd Wells and Chiara Delcino, NH Banking Department -**

Legislation to allow consistent treatment outside or in New Hampshire. Sections 1, 7, 11, 12, 15, 16, 18, and 19 allows to legislation entity travel costs insisently placed into assessment. Greater flexibility in exam process adjusting to flexibility of consumer credit exams. Allow to do less than full exam. Add provision to waive exam of trust or family trust company. Addresses some confidentiality issues. Not subject to 91 A. Can hold credit confidentiality. Can share about criminal activity.

* Amendment -

- 1). Wordsmithing.
- 2). Regulation for consumer credit exams-want to exam 24 months instead of 36.
- 3). 48 months for section 4
- 4). Consumer credit exams would like to waive. When company hasn't done significant business
- 5). For trust companies - authority to examine more often.
- 6). Notice of exam - adding notice of exam to executive office.

Q: Chairman Ed Butler - Where for no?

A: New section in 450.

Q: Rep. Kermit Williams - Rational for cost of travel?

A: In-state-spread and paid. Not equitable, better to treat all same.

Q: Should all travel costs into budget be equitable?

A: Now true of in-state, now every entity pays own no matter when.

Q: Nothing about travel costs in 383:11?

A: Adding language for actual costs. 1st section of 383:11 -"commissioner shall change and collect..." currently direct billing for exact expenses.

Q: Comfortable with replacing whole paragraph with "expenses"?

A: Early part does/current law does not specify travel costs - now separate sections for only out-of-state-need to go to other laws but putting it in now - found all laws to

do this - section 7 adding that will pay actual cost of travel.

Q: Rep. Mark Warden - In amendment, 3rd paragraph - how many do yr? personnel?

A: Bill was 60 months, current regulation every 18 months - 36 months; proposed, 60 and dialing back to 48.

* **Dave Collins, Credit Unions** - Supports. Behalf of NH credit unions - full support. Thanking department worked with department.

Q: Rep. Butler - Mr. Furlow - Do you concur?

A: All concurred.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Constance Van Houten".

Rep. Constance Van Houten

HB 450

① Todd Wells + Chiara Deleino / banking dept

*
testimony

clips to allow consistent treatment
outside or inside NH

sections 1, 7, 11, 12, 15, 16, 18, 19

allow to chg. entity travel costs
insider~~ly~~ placed into assessment

greater flex in exam process
adv. to freq. of consumer credit
exams
allow to do less than full exam

add provision to waive exam of
trust a fam. trust co.

addresses some confid. issues
not subj. to 911A
can hold credit confid.
can share about crim. activity

* amendment -

① wordsmithing

② req. for consumer cr. exams -
want to exam 24 mos

instead of 36

- ③ 48 mos for section 4
 - ④ consumer cr. exams - would like to waive when co. hasn't done significant bus
 - ⑤ for trust co. - authority to examine more often
 - ⑥ justice of exam - adding notice of exam to executive office
-

Q, Butler - where for no
Ans. - new section in 450

Q Schubert

Q ^{WMS} national for cost of travel
A in-state - spread + paid - not equitable,
better to treat all same

Q ^{WMS} build all travel costs into budget
equitably

A now - true of in-state, now every
entity pays even no matter
when

Q Wm - nothing about travel costs
in 383:112

A adding language for actual costs
1st sect of 383:11 - "Com
shall chg. + collect..." / currently
direct billing for exact
expenses

Q Wm - comfortable w/ replacing
whole of "expenses"?

A - early part does / current law
does not specify travel costs - now
sep. sections for only out-of-state.
need to go to other laws but
putting it in now - found
all laws to do this - sect. 5
adding that will pay actual
cost of travel

Q Warden - in amend, 3rd of - how
many do yr. ? preserved?

A bill was 60 mos, current reg. every
18 mos. - 36, proposed 60 + dealing
back to 78

~~Q Warden -~~

② Dave Collins
on behalf of WIH credit unions
full support
* written testimony
thanking department
worked w/ dept.

Q Butler - Furlow - do you concur?
A all concurred

blue sheet - 2 in favor

Testimony

New Hampshire Credit Unions



Creating Cooperative Power

House Commerce and Consumer Affairs Committee

HB 450, An Act Relative to Examinations Conducted by the Banking Department HB 648, An Act Defining and Regulating Service Entities

Statement in Support

The Cooperative Credit Union Association, Inc. ("Association") is the state credit union trade association, serving 15 federally-chartered and state-chartered credit unions that are cooperatively owned by 695,000 local consumers as members. On behalf of New Hampshire credit unions, the Association supports HB 450, *An Act Relative to Examinations Conducted by the Banking Department* and HB 648, *An Act Defining and Regulating Service Entities*, with an amendment as set forth in this Statement. These measures are sponsored by the New Hampshire Banking Department ("Department").

Overview

Beginning in September 2018, the Department initiated an extensive dialogue with the Association and its member credit unions to review several pending legislative proposals it prepared for introduction in the current session. The local credit union movement welcomed this invitation and delved into the substantive provisions to offer advance comments to the Department.

The Association's due diligence included a conference call meeting with all members to update them on the discussion with the Department and focus on key issues, such as the service entity bill pending before this Committee today. At our next industry gathering, the Association's Annual Meeting in October, Commissioner Gerald Little personally attended and continued the discussion. Subsequently, two industry meetings hosted by the Association took place to discuss the measures which led to an in-person meeting with the Department in November. This event represented another opportunity in a series of meetings with each party, the Association, members, and the Department, present to discuss the issues. At each opportunity, the Department reviewed the language of individual bills, stated their intention to hear credit union concerns, and provided an update on final plans for legislative filings for the upcoming session.

As a result of this due diligence, the Association is pleased to offer the following supporting comments incorporating the views of New Hampshire credit unions:

HB 450, An Act Relative to Examinations Conducted by the Banking Department

The thrust of this proposal is to address additional transparency in examinations, fiduciary standard for examiners and examination confidentiality.

The cost of regulatory examinations is always of highest concern to New Hampshire credit unions. This issue has also been a topic of extensive discussion with the Department for several years prior to the current legislative session. In each instance, the Department has understood the concerns of members, highlighted its ongoing efforts, as well as the need for statutory changes, and this year moved forward with HB 450. The Association has continually emphasized the need for the Department to develop additional mitigation tools to further minimize any possible adverse impact resulting from higher examination costs, particularly those experienced by smaller credit unions, wherever possible. Credit unions appreciate the Department's sensitivity to this issue and willingness to continue developing such strategies and implementing them administratively in a timely manner. The Association remains encouraged by the Department's commitment on this issue to achieve additional positive change, through legislative and regulatory efforts, for credit unions in the future.

The Association also supports the inclusion of fiduciary standards for examiners, consistent with those imposed on credit unions, and the requirements imposed on the Department to keep copies of audit reports in its possession confidential. In this light, the Association is pleased to support HB 450.

HB 648, An Act Defining and Regulating Service Entities

This proposal, as first presented to New Hampshire credit unions by the Banking Department, directly and adversely impacted some members as well as future plans for growth of others. It regulates business activities in an area not previously addressed by state law and contained new, restrictive provisions. Members voiced a series of concerns relative to maximum limits, net worth, and consistency with similar bank provisions.

Based upon Association member input, the Department reconsidered its original language and released a redraft of the credit union provisions which is attached to this statement. Priority aspects of the proposal were amended by the Department to provide lending and investment flexibility for credit unions. More specifically, the following new changes addressed concerns and are welcomed by credit unions to be included in a final legislative bill:

- a) An increase in the individual investment and lending limits from 15% net worth to 20% net worth.
- b) The addition of a waiver provision from the 20% limitation. A credit union can seek a waiver if it does not otherwise exceed the 50% limitation and can demonstrate that investments or loans are to a CUSO that engages solely in originating or servicing residential mortgage loans or both, where all such loans meet the definition of a qualified mortgage, the lending activities benefit the credit union's members, and the loan or investment does not present an unacceptable exposure to loss.



State of New Hampshire

Banking Department

53 Regional Drive, Suite 200
Telephone: (603) 271-3561
FAX: (603) 271-1090 or (603) 271-0750

February 12, 2019
Testimony HB 450

HB 450 was drafted at the request of the New Hampshire Banking Department to accomplish the following objectives:

1. Regarding examinations:

- To provide consistent treatment for both examinations conducted in NH and outside NH by requiring all travel related examination costs be paid by the examined entity (Sections 1, 7, 11, 12, 15, 16, 18, and 19)
- To provide for greater flexibility by authorizing:
 - Examinations to be conducted at the Department by consent or subpoena (Sections 2, 9, 14)
 - Adjustments to the frequency of consumer credit examinations (Sections 3 and 4)
 - Adjustments to the scope of examinations (Section 8)
 - Adjustments to the frequency of trust company and family trust company examinations (Section 13)

2. Regarding confidentiality:

- To clarify that confidential records are not subject to RSA 91-A (section 5)
- To clarify that audit reports conducted by outside parties and provided to the Department, shall be confidential (Section 10)
- To permit the Department to share information about suspected criminal activity with law enforcement agencies (Sections 5, 6, and 17)

Amend section 12 of HB 450 to read as follows:

12 Banks and Banking; Trust Company Act; Offices; Examination of Out-of-State Offices. Amend RSA 383-C:7-704 to read as follows:

383-C:7-704 Examination of Out-of-State Trust Offices. The commissioner may enter into agreements with any regulatory authority having jurisdiction to examine out-of-state trust offices of trust companies. For those examinations, the cost shall be *the same as that* provided in RSA 383:11.

Amend section 13 of HB 450 to read as follows:

13 Banks and Banking; Trust Company Act; Examination; Regular Examination. Amend RSA 383-C:14-1401 to read as follows:

383-C:14-1401,I Regular Examination.

I. Subject to RSA 383-C:14-1402, the commissioner shall examine the condition and management of a trust company every 18 months *or more often when necessary in his or her judgment*.

Add a new section in HB 450 and the following new amendment

Amend RSA 383:9-d, V(a) to read as follows:

(a) The licensee has consistently had examinations with few or no cited violations of law *or has not conducted significant business in the state during the exam period*;

HB 450 - AS INTRODUCED

2019 SESSION

19-0780
11/05

HOUSE BILL **450**

AN ACT relative to examinations conducted by the banking department.

SPONSORS: Rep. Luneau, Merr. 10

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill clarifies the authority of the bank commissioner to conduct investigations and examinations on certain regulated entities and the cost of such examinations born by the entity being examined.

The bill is a request of the banking department.

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.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to examinations conducted by the banking department.

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

1 1 Retail Installment Sales; Retail Installment Sales of Motor Vehicles; Examinations. Amend
2 RSA 361-A:6-a, IV to read as follows:

3 IV. The expense of such examination shall be chargeable to and paid by the sales finance
4 company licensee or person. The payment shall be calculated by the same method as for payments
5 by institutions for cost of examinations under RSA 383:11[~~except when the principal office of the~~
6 ~~licensee or person is located outside of this state and the department has determined that the~~
7 ~~examination must be conducted at that out-of-state location, the actual cost of travel, lodging,~~
8 ~~meals, and other expenses of examination personnel making the examination, shall be chargeable to~~
9 ~~and paid by such licensee or person in addition to the per diem charge for examination personnel~~
10 ~~set forth in RSA 383:11].~~

11 2 Banks and Banking; Bank Commissioner; Duties. Amend RSA 383:9, V to read as follows:

12 V. The commissioner may conduct an examination or investigation during business hours,
13 *at the commissioner's office by consent or by subpoena, or* at any location of the entity's
14 operations, including any place where assets are located or where records are made, posted, or kept.
15 The commissioner shall have the power to conduct [~~such~~] an examination or investigation outside
16 the state of New Hampshire and outside the United States and its territories. *Notice of any*
17 *examination may be provided to the entity's main or principal office.*

18 3 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
19 Companies, and Family Trust Companies. Amend RSA 383:9-d, IV to read as follows:

20 IV. The commissioner shall examine the condition and management of all consumer credit
21 licensees as required by law, every [~~48~~] 36 months, or more often when necessary in his or her
22 judgment. In lieu of his or her own report, the commissioner may accept a report of a federal or
23 state regulator or group of regulators with authority to conduct a similar type of examination of the
24 entity.

25 4 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
26 Companies, and Family Trust Companies. Amend RSA 383:9-d, VI to read as follows:

27 VI. In no event shall a licensee be examined less than every [~~36~~] 60 months.

28 5 Banks and Banking; Bank Commissioner; Confidential Information. Amend RSA 383:10-b to
29 read as follows:

30 383:10-b Confidential Information. All records of the department's investigations,
31 examinations, visitations, and reports produced by those investigations, examinations, and

1 visitations including any duly authenticated copy of those records in the possession of any entity
2 under the supervision of the commissioner, shall be confidential, *shall not be subject to RSA 91-*
3 *A*, shall not be subject to subpoena and shall not be made public unless, in the judgment of the
4 commissioner, the ends of justice and the public advantage will be served by the publication of those
5 records. The commissioner may [~~furnish~~] *disclose* to [~~the~~] federal *and state* supervisory
6 authorities and to independent insuring funds which he or she deems qualified such information
7 and reports relating to the entities under his or her supervision as he or she deems best. The
8 commissioner may also furnish to any government sponsored bank created under the Federal Home
9 Loan Bank Act, or any authorized agent thereof, copies of reports of examination concerning any
10 bank or credit union that is a member of such government sponsored bank, as required for the
11 evaluation of the financial condition of the member bank or credit union. *The commissioner may*
12 *share information with state and federal regulators, and may share information with law*
13 *enforcement agencies for the purpose of criminal investigations.* On motion for discovery
14 filed in any court of competent jurisdiction, in aid of any pending action, the court, after hearing the
15 parties, may order the production of those records for use in that action whenever it is found that
16 justice so requires, subject to such reasonable safeguards imposed by the court as may be necessary
17 to prevent use by unauthorized persons or publicity of irrelevant portions of those records.

18 6 Banks and Banking; Bank Commissioner; Consumer Complaints and Restitution. Amend
19 RSA 383:10-d to read as follows:

20 383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive
21 authority and jurisdiction to investigate conduct that may violate any of the provisions of RSA 361-
22 A and Titles XXXV and XXXVI and administrative rules adopted thereunder. The commissioner
23 may hold hearings relative to such conduct and may order restitution for a person or persons
24 adversely affected by such conduct. The commissioner may request the assistance and services of
25 the department of justice and shall delegate to the department of justice the authority to investigate
26 criminal conduct under this section. The commissioner shall provide the department of justice
27 information relevant to the criminal investigation of such matters, if applicable, and shall cooperate
28 with such investigation and prosecution. *The commissioner may also share information with*
29 *state and federal regulators, and may share information with law enforcement agencies*
30 *for the purpose of criminal investigations.*

31 7 Banks and Banking; Bank Commissioner; Examination Costs. Amend RSA 383:11, I to read
32 as follows:

33 I. The commissioner shall charge and collect from each entity, the condition and
34 management of which he or she [~~is required to examine~~] *examines* under the provisions of RSA
35 383:9, *the actual cost of travel, lodging, meals, and other expenses of examination*
36 *personnel employed in making examinations under this section plus* an examination fee,
37 which shall be calculated as a sum equal to the product of the average daily rate of overall salary
38 costs, including the benefits portion thereof, and expenses of all personnel employed in making

1 examinations under the provisions of RSA 383:9, multiplied by the number of personnel days
2 devoted to the examination of the particular entity, provided, however, that no such entity shall be
3 charged or pay for less than one full day. Sums collected under this section shall be payable to the
4 state treasurer as restricted revenue and credited, in accordance with the department's accounting
5 unit designation, to the appropriation for the commissioner or the consumer credit administration
6 division.

7 8 Banks and Banking; Bank Commissioner; Irregularities. Amend RSA 383:16 to read as
8 follows:

9 383:16 Irregularities. If the commissioner, deputy commissioner, or any examiner shall make a
10 false statement of the condition of any institution with the intent to deceive, or shall *intentionally*
11 fail when examining any institution to make a ~~full~~ *prudent* and careful examination of
12 *appropriate scope based on the size, complexity, and the risk profile of the institution*, he
13 *or she* shall be guilty of a class B felony.

14 9 Banks and Banking; Organization of State Banks; Investigative Powers. Amend RSA 383-
15 A:3-306 to read as follows:

16 383-A:3-306 Investigative Powers. For the purpose of any investigation *or examination* under
17 RSA 383-A, RSA 383-B, RSA 383-C, RSA 383-D, and RSA 383-E, the commissioner shall have the
18 power to subpoena witnesses and administer oaths in any adjudicative proceedings and the power
19 to compel, by subpoena duces tecum, the production of all books, records, files, and other documents
20 and materials relevant to his or her investigation *or examination*.

21 10 Banks and Banking; Bank and Credit Union Regulation and Enforcement; Annual Audits;
22 Reports. Amend RSA 383-A:5-509(c) to read as follows:

23 (c) Each state bank or credit union shall direct its auditor to provide, and the auditor
24 shall provide, the commissioner with a copy of its audit report, within 60 days after each is made
25 available to the state bank or credit union. All reports, memoranda, and correspondence *shall be*
26 *held confidentially in accordance with RSA 383:10-b* ~~[remain the property of the individual~~
27 ~~state bank or credit union]~~.

28 11 Depository Bank Act; Interstate Banking; Examination of Foreign Banks and Foreign Bank
29 Holding Companies. Amend RSA 383-B:10-1005(b) to read as follows:

30 (b) The cost of any examination conducted under subsection (a) shall be the same as
31 that provided by RSA 383:11~~[, I, except that the actual cost of travel, lodging, meals, and other~~
32 ~~expenses of examination personnel employed in making examinations under the provisions of~~
33 ~~subsection (a) shall be chargeable to the foreign bank or foreign bank holding company examined~~
34 ~~and shall be paid by such entity in addition to the per diem charge for examination personnel set~~
35 ~~forth in RSA 383:11, I]~~.

36 12 Banks and Banking; Trust Company Act; Offices; Examination of Out-of-State Offices.
37 Amend RSA 383-C:7-704 to read as follows:

38 383-C:7-704 Examination of Out-of-State Trust Offices. The commissioner may enter into

1 agreements with any regulatory authority having jurisdiction to examine out-of-state trust offices of
2 trust companies. For those examinations, *the cost shall be as provided in RSA 383:11* [~~a trust~~
3 ~~company shall pay (i) an examination fee calculated in accordance with RSA 383:11, I, and (ii) the~~
4 ~~actual cost of travel, lodging, meals, and other expenses of examination personnel employed in~~
5 ~~making examinations under this section~~].

6 13 Banks and Banking; Trust Company Act; Examination; Regular Examination. Amend RSA
7 383-C:14-1401 to read as follows:

8 383-C:14-1401 Regular Examination.

9 I. Subject to RSA 383-C:14-1402, the commissioner shall examine the condition and
10 management of a trust company every 18 months.

11 II. *For trust companies that qualify under paragraph III, the commissioner may*
12 *alternate every 18 months between conducting an examination of the entity and either*
13 *waiving one examination, or accepting the examination report of a federal or state*
14 *regulator or group of regulators with authority to conduct a similar type of examination*
15 *of the entity.*

16 III. *A trust company qualifies for examination treatment under paragraph II if:*

17 (a) *It has consistently been given high ratings in past exams.*

18 (b) *It is not currently subject to an enforcement proceeding or order.*

19 (c) *The commissioner has deemed it prudent to apply this paragraph and*
20 *paragraph II.*

21 14 Banks and Banking; Credit Union Act; Investigative Powers. Amend RSA 383-E:3-305 to
22 read as follows:

23 383-E:3-305 Investigative Powers. For the purpose of any investigation *or examination* under
24 this chapter, the commissioner shall have the power to subpoena witnesses and administer oaths in
25 any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books,
26 records, files, and other documents and materials relevant to his or her investigation *or*
27 *examination.*

28 15 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers;
29 Examinations. Amend RSA 397-A:12, VI to read as follows:

30 VI. The expense of such examination shall be chargeable to and paid by the licensee. The
31 payment shall be calculated by the same method as for payments by institutions for cost of
32 examinations under RSA 383:11[~~except when the principal office of the licensee or person is~~
33 ~~located outside of this state and the department has determined that the examination must be~~
34 ~~conducted at that out-of-state location, the actual cost of travel, lodging, meals, and other expenses~~
35 ~~of examination personnel making the examination, shall be chargeable to and paid by such licensee~~
36 ~~or person in addition to the per diem charge for examination personnel set forth in RSA 383:11].~~

37 16 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans;
38 Examinations and Investigations. Amend RSA 399-A:13, V to read as follows:

1 V. The expense of such examination shall be chargeable to and paid by the licensee or
2 person being examined. The payment shall be calculated by the same method as for payments by
3 institutions for cost of examinations under RSA 383:11[~~except when the principal office of the~~
4 ~~licensee or person is located outside of this state and the department has determined that the~~
5 ~~examination shall be conducted at that out of state location, the actual cost of travel, lodging, meals,~~
6 ~~and other expenses of examination personnel making the examination, shall be chargeable to and~~
7 ~~paid by such licensee or person in addition to the per diem charge for examination personnel set~~
8 ~~forth in RSA 383:11].~~

9 17 New Paragraph; Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans,
10 and Payday Loans; Powers of the Commissioner. Amend RSA 399-A:20 by inserting after
11 paragraph VIII the following new paragraph:

12 IX. The commissioner may share information with state and federal regulators, and may
13 share information with law enforcement agencies for the purposes of criminal investigations.

14 18 Pawnbrokers and Moneylenders; Debt Adjustment Services; Examinations and
15 Investigations. Amend RSA 399-D:12, V to read as follows:

16 V. The expense of such examination shall be chargeable to and paid by the licensee or
17 person being examined. The payment shall be calculated by the same method as for payments by
18 institutions for the cost of examinations under RSA 383:11[~~except when the principal office of the~~
19 ~~licensee or person is located outside of this state and the department has determined that the~~
20 ~~examination shall be conducted at that out of state location, the actual cost of travel, lodging, meals,~~
21 ~~and other expenses of examination personnel making the examination shall be chargeable to and~~
22 ~~paid by such licensee or person in addition to the per diem charge for examination personnel set~~
23 ~~forth in RSA 383:11].~~

24 19 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Examinations and
25 Investigations. Amend RSA 399-G:13, V to read as follows:

26 V. The expense of examination shall be chargeable to and paid by the licensee. The
27 payment shall be calculated by the same method as for payments by institutions for cost of
28 examinations under RSA 383:11[~~except when the principal office of the licensee or person is~~
29 ~~located outside of this state and the department has determined that the examination must be~~
30 ~~conducted at that out of state location, the actual cost of travel, lodging, meals, and other expenses~~
31 ~~of examination personnel employed in making examinations shall be chargeable to and paid by such~~
32 ~~licensee or person in addition to the per diem charge for examination personnel set forth in RSA~~
33 ~~383:11].~~

34 20 Effective Date.

35 I. Sections 1, 7, 11, 12, 15, 16, 18, and 19 of this act shall take effect 60 days after its
36 passage.

37 II. The remainder of this act shall take effect upon its passage.