

Bill as
Introduced

HB 450 - AS AMENDED BY THE HOUSE

19Mar2019... 0681h

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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, meals,~~
8 ~~and other expenses of examination personnel making the examination, shall be chargeable to and~~
9 ~~paid by such licensee or person in addition, to the per diem charge for examination personnel set~~
10 ~~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 [sueh] 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 or, for a trust***
18 ***company or family trust company, to any executive officer of the trust company or family***
19 ***trust company.***

20 3 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
21 Companies, and Family Trust Companies. Amend RSA 383:9-d, IV to read as follows:

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

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

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

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

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1 383:10-b Confidential Information. All records of the department's investigations,
2 examinations, visitations, and reports produced by those investigations, examinations, and
3 visitations including any duly authenticated copy of those records in the possession of any entity
4 under the supervision of the commissioner, shall be confidential, *shall not be subject to RSA 91-A*,
5 shall not be subject to subpoena and shall not be made public unless, in the judgment of the
6 commissioner, the ends of justice and the public advantage will be served by the publication of those
7 records. The commissioner may ~~furnish~~ *disclose* to ~~the~~ federal *and state* supervisory authorities
8 and to independent insuring funds which he or she deems qualified such information and reports
9 relating to the entities under his or her supervision as he or she deems best. The commissioner may
10 also furnish to any government sponsored bank created under the Federal Home Loan Bank Act, or
11 any authorized agent thereof, copies of reports of examination concerning any bank or credit union
12 that is a member of such government sponsored bank, as required for the evaluation of the financial
13 condition of the member bank or credit union. *The commissioner may share information with*
14 *state and federal regulators, and may share information with law enforcement agencies*
15 *for the purpose of criminal investigations.* On motion for discovery filed in any court of
16 competent jurisdiction, in aid of any pending action, the court, after hearing the parties, may order
17 the production of those records for use in that action whenever it is found that justice so requires,
18 subject to such reasonable safeguards imposed by the court as may be necessary to prevent use by
19 unauthorized persons or publicity of irrelevant portions of those records.

20 6 Banks and Banking; Bank Commissioner; Consumer Complaints and Restitution. Amend
21 RSA 383:10-d to read as follows:

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

33 7 Banks and Banking; Bank Commissioner; Examination Costs. Amend RSA 383:11, I to read
34 as follows:

35 I. The commissioner shall charge and collect from each entity, the condition and
36 management of which he or she ~~is required to examine~~ *examines* under the provisions of RSA
37 383:9, *the actual cost of travel, lodging, meals, and other expenses of examination*

1 *personnel employed in making examinations under this section plus* an examination fee,
 2 which shall be calculated as a sum equal to the product of the average daily rate of overall salary
 3 costs, including the benefits portion thereof, and expenses of all personnel employed in making
 4 examinations under the provisions of RSA 383:9, multiplied by the number of personnel days
 5 devoted to the examination of the particular entity, provided, however, that no such entity shall be
 6 charged or pay for less than one full day. Sums collected under this section shall be payable to the
 7 state treasurer as restricted revenue and credited, in accordance with the department's accounting
 8 unit designation, to the appropriation for the commissioner or the consumer credit administration
 9 division.

10 8 Banks and Banking; Bank Commissioner; Irregularities. Amend RSA 383:16 to read as
 11 follows:

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

17 9 Banks and Banking; Organization of State Banks; Investigative Powers. Amend RSA 383-A:3-
 18 306 to read as follows:

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

24 10 Banks and Banking; Bank and Credit Union Regulation and Enforcement; Annual Audits;
 25 Reports. Amend RSA 383-A:5-509(c) to read as follows:

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

31 11 Depository Bank Act; Interstate Banking; Examination of Foreign Banks and Foreign Bank
 32 Holding Companies. Amend RSA 383-B:10-1005(b) to read as follows:

33 (b) The cost of any examination conducted under subsection (a) shall be the same as that
 34 provided by RSA 383:11[~~, I, except that the actual cost of travel, lodging, meals, and other expenses~~
 35 ~~of examination personnel employed in making examinations under the provisions of subsection (a)~~
 36 ~~shall be chargeable to the foreign bank or foreign bank holding company examined and shall be paid~~

1 ~~by such entity in addition to the per diem charge for examination personnel set forth in RSA 383:11,~~
2 ~~I].~~

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~~
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10 ***cost shall be the same as that provided in RSA 383:11.***

11 13 Banks and Banking; Trust Company Act; Examination; Regular Examination. Amend RSA
12 383-C:14-1401 to read as follows:

13 383-C:14-1401 Regular Examination.

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***
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17 ***II.*** ***For trust companies that qualify under paragraph III, the commissioner may***
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19 ***waiving one examination, or accepting the examination report of a federal or state***
20 ***regulator or group of regulators with authority to conduct a similar type of examination of***
21 ***the entity.***

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

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

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

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

27 14 Banks and Banking; Credit Union Act; Investigative Powers. Amend RSA 383-E:3-305 to
28 read as follows:

29 383-E:3-305 Investigative Powers. For the purpose of any investigation ***or examination*** under
30 this chapter, the commissioner shall have the power to subpoena witnesses and administer oaths in
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33 ***examination.***

34 15 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers;
35 Examinations. Amend RSA 397-A:12, VI to read as follows:

36 ***VI.*** The expense of such examination shall be chargeable to and paid by the licensee. The
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1 examinations under RSA 383:11~~], except when the principal office of the licensee or person is located~~
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5 ~~addition to the per diem charge for examination personnel set forth in RSA 383:11].~~

6 16 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday Loans;
7 Examinations and Investigations. Amend RSA 399-A:13, V to read as follows:

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16 17 New Paragraph; Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans,
17 and Payday Loans; Powers of the Commissioner. Amend RSA 399-A:20 by inserting after paragraph
18 VIII the following new paragraph:

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

21 18 Pawnbrokers and Moneylenders; Debt Adjustment Services; Examinations and
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31 19 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Examinations and
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1 ~~personnel employed in making examinations shall be chargeable to and paid by such licensee or~~
2 ~~person in addition to the per diem charge for examination personnel set forth in RSA 383:11].~~

3 20 Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies.

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

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

7 21 Effective Date.

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

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

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34 shall be calculated by the same method as for payments by institutions for cost of examinations
35 under RSA 383:11~~], except when the principal office of the licensee or person is located outside of~~
36 ~~this state and the department has determined that the examination must be conducted at that out-~~
37 ~~of state location, the actual cost of travel, lodging, meals, and other expenses of examination~~

HB 450 - FINAL VERSION

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1 ~~personnel employed in making examinations shall be chargeable to and paid by such licensee or~~
2 ~~person in addition to the per diem charge for examination personnel set forth in RSA 383:11].~~

3 20 Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies.
4 Amend RSA 383:9-d, V(a) to read as follows:

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

7 21 Banks and Banking; Organization of State Banks; Investigative Powers. Amend RSA 383-
8 A:3-306 to read as follows:

9 383-A:3-306 Investigative Powers. For the purpose of any investigation ***or examination*** under
10 RSA 383-A, RSA 383-B, RSA 383-C, and RSA 383-D, the commissioner shall have the power to
11 subpoena witnesses and administer oaths in any adjudicative proceedings and the power to compel,
12 by subpoena duces tecum, the production of all books, records, files, and other documents and
13 materials relevant to his or her investigation ***or examination***.

14 22 Contingency. If HB 474 of the 2019 regular legislative session becomes law, section 21 of this
15 act shall take effect at 12:01 a.m. on the effective date of HB 474 and section 9 of this act shall not
16 take effect. If HB 474 of the 2019 regular legislative session does not become law, then section 9 of
17 this act shall take effect upon its passage and section 21 of this act shall not take effect.

18 23 Effective Date.

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

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

CHAPTER 168
HB 450 - FINAL VERSION

19Mar2019... 0681h
6Jun2019... 2410-EBA

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.

CHAPTER 168
HB 450 - FINAL VERSION

19Mar2019... 0681h
6Jun2019... 2410-EBA

19-0780
11/05

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:

1 168:1 Retail Installment Sales; Retail Installment Sales of Motor Vehicles; Examinations.
2 Amend 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, meals,~~
8 ~~and other expenses of examination personnel making the examination, shall be chargeable to and~~
9 ~~paid by such licensee or person in addition to the per diem charge for examination personnel set~~
10 ~~forth in RSA 383:11].~~

11 168:2 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 or, for a trust***
18 ***company or family trust company, to any executive officer of the trust company or family***
19 ***trust company.***

20 168:3 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
21 Companies, and Family Trust Companies. Amend RSA 383:9-d, IV to read as follows:

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

26 168:4 Banks and Banking; Bank Commissioner; Examination of Banks, Credit Unions, Trust
27 Companies, and Family Trust Companies. Amend RSA 383:9-d, VI to read as follows:

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

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HB 450 - FINAL VERSION

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1 168:5 Banks and Banking; Bank Commissioner; Confidential Information. Amend RSA 383:10-
2 b to read as follows:

3 383:10-b Confidential Information. All records of the department's investigations,
4 examinations, visitations, and reports produced by those investigations, examinations, and
5 visitations including any duly authenticated copy of those records in the possession of any entity
6 under the supervision of the commissioner, shall be confidential, **shall not be subject to RSA 91-A**,
7 shall not be subject to subpoena and shall not be made public unless, in the judgment of the
8 commissioner, the ends of justice and the public advantage will be served by the publication of those
9 records. The commissioner may [furnish] **disclose** to [the] federal **and state** supervisory authorities
10 and to independent insuring funds which he or she deems qualified such information and reports
11 relating to the entities under his or her supervision as he or she deems best. The commissioner may
12 also furnish to any government sponsored bank created under the Federal Home Loan Bank Act, or
13 any authorized agent thereof, copies of reports of examination concerning any bank or credit union
14 that is a member of such government sponsored bank, as required for the evaluation of the financial
15 condition of the member bank or credit union. **The commissioner may share information with**
16 **state and federal regulators, and may share information with law enforcement agencies**
17 **for the purpose of criminal investigations.** On motion for discovery filed in any court of
18 competent jurisdiction, in aid of any pending action, the court, after hearing the parties, may order
19 the production of those records for use in that action whenever it is found that justice so requires,
20 subject to such reasonable safeguards imposed by the court as may be necessary to prevent use by
21 unauthorized persons or publicity of irrelevant portions of those records.

22 168:6 Banks and Banking; Bank Commissioner; Consumer Complaints and Restitution. Amend
23 RSA 383:10-d to read as follows:

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

35 168:7 Banks and Banking; Bank Commissioner; Examination Costs. Amend RSA 383:11, I to
36 read as follows:

CHAPTER 168
HB 450 - FINAL VERSION

- Page 3 -

1 I. The commissioner shall charge and collect from each entity, the condition and
2 management of which he or she ~~[is required to examine]~~ *examines* under the provisions of RSA
3 383:9, *the actual cost of travel, lodging, meals, and other expenses of examination*
4 *personnel employed in making examinations under this section plus* an examination fee,
5 which shall be calculated as a sum equal to the product of the average daily rate of overall salary
6 costs, including the benefits portion thereof, and expenses of all personnel employed in making
7 examinations under the provisions of RSA 383:9, multiplied by the number of personnel days
8 devoted to the examination of the particular entity, provided, however, that no such entity shall be
9 charged or pay for less than one full day. Sums collected under this section shall be payable to the
10 state treasurer as restricted revenue and credited, in accordance with the department's accounting
11 unit designation, to the appropriation for the commissioner or the consumer credit administration
12 division.

13 168:8 Banks and Banking; Bank Commissioner; Irregularities. Amend RSA 383:16 to read as
14 follows:

15 383:16 Irregularities. If the commissioner, deputy commissioner, or any examiner shall make a
16 false statement of the condition of any institution with the intent to deceive, or shall *intentionally*
17 fail when examining any institution to make a ~~[full]~~ *prudent* and careful examination of
18 *appropriate scope based on the size, complexity, and the risk profile of the institution*, he or
19 *she* shall be guilty of a class B felony.

20 168:9 Banks and Banking; Organization of State Banks; Investigative Powers. Amend RSA 383-
21 A:3-306 to read as follows:

22 383-A:3-306 Investigative Powers. For the purpose of any investigation *or examination* under
23 RSA 383-A, RSA 383-B, RSA 383-C, RSA 383-D, and RSA 383-E, the commissioner shall have the
24 power to subpoena witnesses and administer oaths in any adjudicative proceedings and the power to
25 compel, by subpoena duces tecum, the production of all books, records, files, and other documents
26 and materials relevant to his or her investigation *or examination*.

27 168:10 Banks and Banking; Bank and Credit Union Regulation and Enforcement; Annual
28 Audits; Reports. Amend RSA 383-A:5-509(c) to read as follows:

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

34 168:11 Depository Bank Act; Interstate Banking; Examination of Foreign Banks and Foreign
35 Bank Holding Companies. Amend RSA 383-B:10-1005(b) to read as follows:

36 (b) The cost of any examination conducted under subsection (a) shall be the same as that
37 provided by RSA 383:11~~[, I, except that the actual cost of travel, lodging, meals, and other expenses~~

CHAPTER 168
HB 450 - FINAL VERSION

- Page 4 -

1 ~~of examination personnel employed in making examinations under the provisions of subsection (a)~~
2 ~~shall be chargeable to the foreign bank or foreign bank holding company examined and shall be paid~~
3 ~~by such entity in addition to the per diem charge for examination personnel set forth in RSA 383:11,~~
4 ~~I].~~

5 168:12 Banks and Banking; Trust Company Act; Offices; Examination of Out-of-State Offices.
6 Amend RSA 383-C:7-704 to read as follows:

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

13 168:13 Banks and Banking; Trust Company Act; Examination; Regular Examination. Amend
14 RSA 383-C:14-1401 to read as follows:

15 383-C:14-1401 Regular Examination.

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

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

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

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

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

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

29 168:14 Banks and Banking; Credit Union Act; Investigative Powers. Amend RSA 383-E:3-305
30 to read as follows:

31 383-E:3-305 Investigative Powers. For the purpose of any investigation ***or examination*** under
32 this chapter, the commissioner shall have the power to subpoena witnesses and administer oaths in
33 any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books,
34 records, files, and other documents and materials relevant to his or her investigation ***or***
35 ***examination.***

36 168:15 Banks and Banking; Licensing of Nondepository Mortgage Bankers, Brokers, and
37 Servicers; Examinations. Amend RSA 397-A:12, VI to read as follows:

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HB 450 - FINAL VERSION

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

8 168:16 Pawnbrokers and Moneylenders; Regulation of Small Loans, Title Loans, and Payday
9 Loans; Examinations and Investigations. Amend RSA 399-A:13, V to read as follows:

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

18 168:17 New Paragraph; Pawnbrokers and Moneylenders; Regulation of Small Loans, Title
19 Loans, and Payday Loans; Powers of the Commissioner. Amend RSA 399-A:20 by inserting after
20 paragraph VIII the following new paragraph:

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

23 168:18 Pawnbrokers and Moneylenders; Debt Adjustment Services; Examinations and
24 Investigations. Amend RSA 399-D:12, V to read as follows:

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

33 168:19 Pawnbrokers and Moneylenders; Licensing of Money Transmitters; Examinations and
34 Investigations. Amend RSA 399-G:13, V to read as follows:

35 V. The expense of examination shall be chargeable to and paid by the licensee. The payment
36 shall be calculated by the same method as for payments by institutions for cost of examinations
37 under RSA 383:11~~[-except when the principal office of the licensee or person is located outside of~~

CHAPTER 168
HB 450 - FINAL VERSION
- Page 6 -

1 ~~this state and the department has determined that the examination must be conducted at that out-~~
2 ~~of state location, the actual cost of travel, lodging, meals, and other expenses of examination~~
3 ~~personnel employed in making examinations shall be chargeable to and paid by such licensee or~~
4 ~~person in addition to the per diem charge for examination personnel set forth in RSA 383:11].~~

5 168:20 Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies.
6 Amend RSA 383:9-d, V(a) to read as follows:

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

9 168:21 Banks and Banking; Organization of State Banks; Investigative Powers. Amend RSA
10 383-A:3-306 to read as follows:

11 383-A:3-306 Investigative Powers. For the purpose of any investigation ***or examination*** under
12 RSA 383-A, RSA 383-B, RSA 383-C, and RSA 383-D, the commissioner shall have the power to
13 subpoena witnesses and administer oaths in any adjudicative proceedings and the power to compel,
14 by subpoena duces tecum, the production of all books, records, files, and other documents and
15 materials relevant to his or her investigation ***or examination***.

16 168:22 Contingency. If HB 474 of the 2019 regular legislative session becomes law, section 21 of
17 this act shall take effect at 12:01 a.m. on the effective date of HB 474 and section 9 of this act shall
18 not take effect. If HB 474 of the 2019 regular legislative session does not become law, then section 9
19 of this act shall take effect upon its passage and section 21 of this act shall not take effect.

20

21 168:23 Effective Date.

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

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

Approved: July 10, 2019

Effective Date:

I. Sections 1,7,11,12,15,16,18 and 19 shall take effect September 8, 2019.

II. Remainder shall take effect July 10, 2019.

Committee Minutes

AMENDED
SENATE CALENDAR NOTICE
Commerce

Sen Kevin Cavanaugh, Chair
Sen Jon Morgan, Vice Chair
Sen Donna Soucy, Member
Sen Chuck Morse, Member
Sen Harold French, Member

Date: April 17, 2019

HEARINGS

Tuesday	04/23/2019	
(Day)	(Date)	
Commerce	SH 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m.	HB 664-FN	relative to vehicle repair standards.
1:15 p.m.	HB 670-FN	relative to the cost of prescription drugs.
1:30 p.m.	HB 450	relative to examinations conducted by the banking department.
1:45 p.m.	HB 620-FN	relative to the penalty fee structure for late premium tax payments.
2:00 p.m.	HB 598	establishing a commission to study beer, wine, and liquor tourism.
2:15 p.m.	HB 348	relative to procedures for condominiums with 25 or fewer residential units.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 664-FN

Rep. Williams

Rep. Packard

HB 670-FN

Rep. Butler

HB 450

Rep. Luneau

HB 620-FN

Rep. Hunt

HB 598

Rep. Williams

HB 348

Rep. Almy

Rep. McBeath

Sen. Bradley

Rep. Marsh

Sen. Birdsell

Rep. Goley

Sen. Birdsell

Rep. Knirk

Rep. Green

Sen. Watters

Sen. Sherman

Laura Bryant 271-1403

Kevin Cavanaugh
Chairman

Senate Commerce Committee

Laura Bryant 271-1403

HB 450, relative to examinations conducted by the banking department.

Hearing Date: April 23, 2019

Time Opened: 2:36 p.m.

Time Closed: 2:38 p.m.

Members of the Committee Present: Senators Cavanaugh, Morgan, Soucy, Morse and French

Members of the Committee Absent : None

Bill 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.

Sponsors:

Rep. Luneau

Who supports the bill: Jay Ward with SEA, Rep. Potucek, Rep. Williams, David Collins with NH Credit Union, Ryan Hale with NH Bankers, Glenn Perlow with NH Trust Council, Chiara Dolcino with NHBD

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented:

Rep. Kermit Williams for Representative Luneau:

- Rep. Williams stated that this bill is a set of technical corrections and it deals with how examinations by the banking department are conducted.

Chiara Dolcino, General counsel at NH banking department:

- She said the bill accomplishes various objectives laid out by the department such as providing consistent treatment for both examinations conducted inside and outside New Hampshire, greater flexibility in the authorization of various exams, and clarifying multiple areas in regard to confidentiality.

LHB

Date Hearing Report completed: April 24, 2019

Speakers

Testimony



State of New Hampshire

Banking Department

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

April 23, 2019
Senate 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 identify where notice of an examination shall be delivered (Section 1)
- 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, 4, 20)
 - 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)

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

Bill # 956

Hearing date: _____

Executive Session date: _____

Motion of: OTP Vote: 8-0

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: E Morgan

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, April 24, 2019

THE COMMITTEE ON Commerce

to which was referred **HB 450**

AN ACT

relative to examinations conducted by the banking
department.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Jon Morgan
For the Committee

This bill, a request of the banking department, 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. This bill will assist the department in providing consistent treatment for examinations both inside and outside New Hampshire.

Laura Bryant 271-1403

FOR THE CONSENT CALENDAR

COMMERCE

HB 450, relative to examinations conducted by the banking department.

Ought to Pass, Vote 5-0.

Senator Jon Morgan for the committee.

This bill, a request of the banking department, 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. This bill will assist the department in providing consistent treatment for examinations both inside and outside New Hampshire.

General Court of New Hampshire - Bill Status System

Docket of HB450

Docket Abbreviations

Bill Title: relative to examinations conducted by the banking department.*Official Docket of HB450.:*

Date	Body	Description
1/8/2019	H	Introduced 01/03/2019 and referred to Commerce and Consumer Affairs HJ 3 P. 14
2/6/2019	H	Public Hearing: 02/12/2019 10:00 am LOB 302
2/13/2019	H	Subcommittee Work Session: 02/21/2019 10:30 am LOB 304
2/13/2019	H	==RECESSED== Executive Session: 02/21/2019 02:00 pm LOB 302
2/25/2019	H	Subcommittee Work Session: 02/26/2019 02:30 pm LOB 302
2/28/2019	H	Executive Session: 03/08/2019 01:30 pm LOB 302-304
3/12/2019	H	Committee Report: Ought to Pass with Amendment # 2019-0681h for 03/19/2019 (Vote 20-0; CC) HC 16 P. 4
3/19/2019	H	Amendment # 2019-0681h : AA VV 03/19/2019 HJ 10 P. 6
3/19/2019	H	Ought to Pass with Amendment 2019-0681h: MA VV 03/19/2019 HJ 10 P. 6
4/1/2019	S	Introduced 03/28/2019 and Referred to Commerce; SJ 12
4/17/2019	S	Hearing: 04/23/2019, Room 100, SH, 01:30 pm; SC 19
4/24/2019	S	Committee Report: Ought to Pass, 05/02/2019; Vote 5-0; CC SC 20
5/2/2019	S	Ought to Pass: MA, VV; OT3rdg; 05/02/2019; SJ 15
6/5/2019	S	Enrolled Bill Amendment # 2019-2410e Adopted, VV, (In recess of 05/30/2019); SJ 19
6/6/2019	H	Enrolled Bill Amendment # 2019-2410e : AA VV 06/06/2019 HJ 18 P. 40
6/18/2019	S	Enrolled (In recess 06/13/2019); SJ 21
6/18/2019	H	Enrolled 06/13/2019 HJ 19 P. 18
7/15/2019	H	Signed by Governor Sununu 07/10/2019; Chapter 168; I. Sec. 1/7/11/12/15/16/18 & 19 Eff: 09/08/2019 II. Rem. Eff: 07/10/2019

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 450

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- ___ - amendment # _____
- ___ - amendment # _____
- ___ - amendment # _____
- ___ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- ___ - amendment # _____
- ___ - amendment # _____
- ___ - amendment # _____
- ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 2410EBA
- Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- ___ as amended by the senate
- ___ as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By: _____

Committee Aide

Date

Senate Clerk's Office AK

June 3, 2019
2019-2410-EBA
01/04

Enrolled Bill Amendment to HB 450

The Committee on Enrolled Bills 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 as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 450

This enrolled bill amendment resolves conflicts with HB 474 of the 2019 regular legislative session and 2019, 36 (HB 649).

Enrolled Bill Amendment to HB 450

Amend the bill by replacing section 6 with the following:

6 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. *The commissioner may also share information with state and federal regulators, and may share information with law enforcement agencies for the purpose of criminal investigations.*

Amend the bill by inserting after section 20 the following and renumbering the original section 21 to

ENROLLED BILL AMENDMENT TO HB 450

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read as 23:

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

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

22 Contingency. If HB 474 of the 2019 regular legislative session becomes law, section 21 of this act shall take effect at 12:01 a.m. on the effective date of HB 474 and section 9 of this act shall not take effect. If HB 474 of the 2019 regular legislative session does not become law, then section 9 of this act shall take effect upon its passage and section 21 of this act shall not take effect.