

Bill as
Introduced

HB 312 - AS AMENDED BY THE HOUSE

7Apr2021... 0093h

2021 SESSION

21-0548
11/06

HOUSE BILL

312

AN ACT

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

SPONSORS: Rep. Hunt, Ches. 11

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill:

I. Clarifies and extends deadlines in consumer credit examinations applicable to certain entities licensed by the banking department.

II. Clarifies the home state licensing requirement for mortgage loan originators.

III. Provides that family trust companies may be examined more frequently than every 36 months if the commissioner deems it necessary.

IV. Clarifies that depository banks may elect RSA 293-C benefit corporation status.

V. Establishes requirements applicable to credit union boards who delegate to committees.

VI. Adjusts restrictions on loans and other financial transactions that disqualify the commissioner or deputy commissioner from serving in his or her role.

This bill is a request of the banking department.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

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

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

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

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

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

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

27 2 Nondepository Mortgage Bankers, Brokers, and Servicers; Examinations. Amend RSA 397-
28 A:12, IV to read as follows:

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

7 **Licensees shall:**

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

12 (2) *Deliver to the commissioner files selected by the commissioner from the*
 13 *list delivered in subparagraph (a)(1), and any other files or documents requested, within*
 14 *21 days of receipt of the request.*

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

20 3 Regulation of Small Loans; Title Loans; and Payday Loans; Examinations and Investigations.
 21 Amend RSA 399-A:13, VI to read as follows:

22 VI.(a) Those licensees or persons, **including those** that maintain their files and business
 23 documents in another state shall ~~[appoint a New Hampshire agent and shall return such files and~~
 24 ~~documents to their principal New Hampshire office, the banking department, or the office of their~~
 25 ~~New Hampshire agent for examination no later than 21 calendar days after being requested to do so~~
 26 ~~by the department. When the commissioner requests a list of New Hampshire consumers who have~~
 27 ~~contracted with the licensee or other similar summary document from a licensee from which to select~~
 28 ~~particular files for review, the licensee shall ensure that the list is received by the commissioner~~
 29 ~~within 7 calendar days and return the files selected by the commissioner to the commissioner within~~
 30 ~~14 calendar days to ensure compliance with the 21 day requirement.]:~~

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

35 (2) *Deliver to the commissioner files selected by the commissioner from the*
 36 *list delivered in subparagraph (a)(1), and any other files or documents requested, within*
 37 *21 days of receipt of the request.*

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

6 4 Debt Adjustment Services; Examinations and Investigations. Amend RSA 399-D:12, VI to
7 read as follows:

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

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

21 (2) **Deliver to the commissioner files selected by the commissioner from the**
22 **list delivered in subparagraph (a)(1), and any other files or documents requested, within**
23 **21 days of receipt of the request.**

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

29 5 New Paragraph; Licensing of Money Transmitters; Examinations and Investigations. Amend
30 RSA 399-G:13 by inserting after paragraph V the following new paragraph:

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

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1 6 Nondepository Mortgage Bankers, Brokers, and Servicers; License Application; Requirements;
2 Investigation. Amend RSA 397-A:5, VIII to read as follows:

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

8 7 Family Trust Company Act; Examination. Amend RSA 383-D:11-1101(a) to read as follows:

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

11 8 New Subparagraph; Banks and Credit Unions; Enforcement; Definitions. Amend RSA 383-
12 A:2-201(a) by inserting after subparagraph (37) the following new subparagraph:

13 (37-a) "New Hampshire Benefit Corporation Act" means RSA 293-C or any
14 replacement or successor New Hampshire statutes.

15 9 Banks and Credit Unions; Enforcement; Definitions; Organizations Act. Amend RSA 383-A:2-
16 201(a)(41) to read as follows:

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

21 10 Organization of State Banks; Type of Entity; Conversion. Amend RSA 383-A:3-303(a) to read
22 as follows:

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

27 11 New Paragraph; Credit Union Act; Responsibilities of Directors and Officers. Amend RSA
28 383-E:5-506 by inserting after paragraph (b) the following new paragraph:

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

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

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

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

3 12 Bank Commissioner; Qualifications. Amend RSA 383:6 to read as follows:

4 383:6 Qualifications. No person who is not a resident of the state at the time of his or her
5 appointment or who fails to become a resident of the state within one year after his or her
6 appointment, and no person who is indebted to any entity under the supervision of the
7 commissioner, or who holds any stock or office in the entity, or who is engaged as principal or agent
8 in the business of selling or negotiating loans, stocks, or securities of any kind in this state, or who is
9 an officer or stockholder in any entity engaged in that business, shall be eligible to hold or continue
10 to hold the office of commissioner or deputy commissioner. The provisions of this section relative to
11 indebtedness to an entity under the supervision of the commissioner shall not disqualify a person
12 who, ~~at the time of his or her appointment,~~ is indebted to the entity for ~~[a home mortgage loan, or if~~
13 ~~at a time subsequent to his or her appointment a legal transfer of the loan or conversion of an entity~~
14 ~~results in the loan being held by an entity under the supervision of the commissioner or deputy~~
15 ~~commissioner, provided that the indebtedness shall be limited to such pre-existing contracts.]~~ *a*
16 *residential mortgage loan, car loan, or other secured personal loan if such indebtedness is*
17 *subject to customary terms and conditions and transacted in the normal course of*
18 *business. The provisions of this section relative to stock shall not disqualify a person who*
19 *holds investments in shares of regulated diversified investment companies.*

20 13 Repeal. RSA 399-G:11, II, relative to record keeping requirements for licensed money
21 transmitters, is repealed.

22 14 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 51
HB 312 - FINAL VERSION

7Apr2021... 0093h

2021 SESSION

21-0548
11/06

HOUSE BILL **312**

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

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2 follows:

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4 subject at any time to periodic, special, regular, or other examination by the banking department
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18 *of the licensee, within 7 days of receipt of the request; and*

19 (2) *Deliver to the commissioner files selected by the commissioner from the*
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21 *21 days of receipt of the request.*

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

27 51:2 Nondepository Mortgage Bankers, Brokers, and Servicers; Examinations. Amend RSA 397-
28 A:12, IV to read as follows:

CHAPTER 51
HB 312 - FINAL VERSION

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1 IV. ~~[When a licensee is requested to provide files or business records to the office of the~~
2 ~~department, such material must be received no later than 21 calendar days from receipt of request.~~
3 ~~When the department requests a loan list or other similar summary document from a licensee from~~
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18 days after [being requested to do so by the department] *receipt of the request* shall be sufficient
19 cause for license revocation, suspension, or denial.

20 51:3 Regulation of Small Loans; Title Loans; and Payday Loans; Examinations and
21 Investigations. Amend RSA 399-A:13, VI to read as follows:

22 VI.(a) Those licensees or persons, *including those* that maintain their files and business
23 documents in another state shall ~~[appoint a New Hampshire agent and shall return such files and~~
24 ~~documents to their principal New Hampshire office, the banking department, or the office of their~~
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HB 312 - FINAL VERSION
- Page 3 -

1 (b) Failure to provide files ~~[and]~~ *or* documents within the time established by this
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3 files ~~[and]~~ *or* documents are not produced. Failure to provide files ~~[and]~~ *or* documents within 60
4 days after ~~[being requested to do so by the department]~~ *receipt of the request* shall be sufficient
5 cause for license revocation, suspension, or denial, or other penalties under this chapter.

6 51:4 Debt Adjustment Services; Examinations and Investigations. Amend RSA 399-D:12, VI to
7 read as follows:

8 VI.(a) Those licensees or persons, *including those* that maintain their files and business
9 documents in another state shall ~~[appoint a New Hampshire agent and shall return such files and~~
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15 ~~within 7 calendar days and shall return the files selected by the commissioner to the commissioner~~
16 ~~within 14 calendar days to ensure compliance with the 21 day requirement.]:~~

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19 *business regulated under this chapter, and other requested lists summarizing the business*
20 *of the licensee, within 7 days of receipt of the request; and*

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27 days after ~~[being requested to do so by the department]~~ *receipt of the request* shall be sufficient
28 cause for license revocation, suspension, or denial, or other penalties under this chapter.

29 51:5 New Paragraph; Licensing of Money Transmitters; Examinations and Investigations.
30 Amend RSA 399-G:13 by inserting after paragraph V the following new paragraph:

31 V-a. Those licensees or persons, including those that maintain their files and business
32 documents in another state, shall deliver to the commissioner any files or documents requested,
33 within 28 days of receipt of the request. Failure to provide files or documents within the time
34 established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day
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37 penalties under this chapter.

CHAPTER 51
HB 312 - FINAL VERSION
- Page 4 -

1 51:6 Nondepository Mortgage Bankers, Brokers, and Servicers; License Application;
2 Requirements; Investigation. Amend RSA 397-A:5, VIII to read as follows:

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

8 51:7 Family Trust Company Act; Examination. Amend RSA 383-D:11-1101(a) to read as follows:

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

11 51:8 New Subparagraph; Banks and Credit Unions; Enforcement; Definitions. Amend RSA 383-
12 A:2-201(a) by inserting after subparagraph (37) the following new subparagraph:

13 (37-a) "New Hampshire Benefit Corporation Act" means RSA 293-C or any
14 replacement or successor New Hampshire statutes.

15 51:9 Banks and Credit Unions; Enforcement; Definitions; Organizations Act. Amend RSA 383-
16 A:2-201(a)(41) to read as follows:

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

21 51:10 Organization of State Banks; Type of Entity; Conversion. Amend RSA 383-A:3-303(a) to
22 read as follows:

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

27 51:11 New Paragraph; Credit Union Act; Responsibilities of Directors and Officers. Amend RSA
28 383-E:5-506 by inserting after paragraph (b) the following new paragraph:

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

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

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

CHAPTER 51
HB 312 - FINAL VERSION
- Page 5 -

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

3 51:12 Bank Commissioner; Qualifications. Amend RSA 383:6 to read as follows:

4 383:6 Qualifications. No person who is not a resident of the state at the time of his or her
5 appointment or who fails to become a resident of the state within one year after his or her
6 appointment, and no person who is indebted to any entity under the supervision of the
7 commissioner, or who holds any stock or office in the entity, or who is engaged as principal or agent
8 in the business of selling or negotiating loans, stocks, or securities of any kind in this state, or who is
9 an officer or stockholder in any entity engaged in that business, shall be eligible to hold or continue
10 to hold the office of commissioner or deputy commissioner. The provisions of this section relative to
11 indebtedness to an entity under the supervision of the commissioner shall not disqualify a person
12 who ~~[, at the time of his or her appointment,]~~ is indebted to the entity for ~~[a home mortgage loan, or if~~
13 ~~at a time subsequent to his or her appointment a legal transfer of the loan or conversion of an entity~~
14 ~~results in the loan being held by an entity under the supervision of the commissioner or deputy~~
15 ~~commissioner, provided that the indebtedness shall be limited to such pre-existing contracts.]~~ *a*
16 *residential mortgage loan, car loan, or other secured personal loan if such indebtedness is*
17 *subject to customary terms and conditions and transacted in the normal course of*
18 *business. The provisions of this section relative to stock shall not disqualify a person who*
19 *holds investments in shares of regulated diversified investment companies.*

20 51:13 Repeal. RSA 399-G:11, II, relative to record keeping requirements for licensed money
21 transmitters, is repealed.

 51:14 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 25, 2021
Effective Date: July 24, 2021

Committee Minutes

SENATE CALENDAR NOTICE

Commerce

Sen Harold French, Chair
 Sen Bill Gannon, Vice Chair
 Sen Jeb Bradley, Member
 Sen Donna Soucy, Member
 Sen Kevin Cavanaugh, Member

Date: April 15, 2021

HEARINGS

Tuesday

04/20/2021

(Day)

(Date)

Commerce

REMOTE 000

9:00 a.m.

(Name of Committee)

(Place)

(Time)

- | | | |
|------------|------------------|---|
| 9:00 a.m. | HB 299 | relative to responsibilities of the insurance department. |
| 9:15 a.m. | HB 518 | relative to rebates under the law governing unfair insurance practices. |
| 9:30 a.m. | HB 520 | relative to e-delivery of insurance documents and commercial lines renewal notices. |
| 9:45 a.m. | HB 312 | relative to deadlines in consumer credit applications, licensing requirements for mortgage loan originators, examinations of family trust companies, delegation by credit union boards to committees, qualifications of the banking commissioner, and authorizing depository banks to elect benefit corporation status. |
| 10:00 a.m. | HB 519 | relative to technical changes in the laws administered by the insurance department. |
| 10:15 a.m. | HB 610-FN | requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department. |

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/99935596171>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-646-558-8656, or 1-301-715-8592, or 1-312-626-6799, or 1-669-900-9128, or 1-253-215-8782, or 1-346-248-7799
3. Or iPhone one-tap: 16465588656,,99935596171# or 13017158592,,99935596171#
4. Webinar ID: 999 3559 6171
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 299

Rep. Potucek

HB 518

Rep. Infantine

HB 520

Rep. Bartlett

Rep. Hunt

Sen. Cavanaugh

HB 312

Rep. Hunt

HB 519

Rep. Hunt

HB 610-FN

Rep. Hunt

Aaron Jones 271-4063

Harold F. French
Chairman

Senate Commerce Committee

Aaron Jones 271-4063

HB 312, relative to deadlines in consumer credit applications, licensing requirements for mortgage loan originators, examinations of family trust companies, delegation by credit union boards to committees, qualifications of the banking commissioner, and authorizing depository banks to elect benefit corporation status.

Hearing Date: April 20, 2021

Time Opened: 9:45 a.m.

Time Closed: 9:51 a.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : None

Bill Analysis: This bill:

I. Clarifies and extends deadlines in consumer credit examinations applicable to certain entities licensed by the banking department.

II. Clarifies the home state licensing requirement for mortgage loan originators.

III. Provides that family trust companies may be examined more frequently than every 36 months if the commissioner deems it necessary.

IV. Clarifies that depository banks may elect RSA 293-C benefit corporation status.

V. Establishes requirements applicable to credit union boards who delegate to committees.

VI. Adjusts restrictions on loans and other financial transactions that disqualify the commissioner or deputy commissioner from serving in his or her role.

This bill is a request of the banking department.

Sponsors:
Rep. Hunt

Who supports the bill: Representative John Potucek, Commissioner Jerry Little (NH Banking Department), Chiara Dolcino (NH Banking Department), Raeleen Schutte (NH Banking Department), Todd Wells (NH Banking Department), Ryan Hale (NH Bankers), Tom Prasol (Mortgage Bankers & Brokers Association of NH), Glenn Perlow (NH Trust Council), Dave Collins (NH Credit Unions)

Who opposes the bill: No one

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Bill Gannon

- On behalf of Representative Hunt, Senator Gannon introduced HB 312.

Commissioner Jerry Little, New Hampshire Banking Department

- Last session, similar legislation was included in the budget; however, it was vetoed.
- Since then, Commissioner Little said they've vetted each provision of the legislation with stakeholders and there has been no opposition.

Chiara Dolcino, General Counsel, New Hampshire Banking Department

- This bill is aimed at clarifying existing laws that affect chartered and licensed institutions.
- Attorney Dolcino said these changes would make the effected statutes less confusing by incorporating longstanding interpretations of law and eliminating obsolete or unnecessary requirements.
- Sections 1 through 5 and 13 would clarify and extend the deadlines for consumer credit licensee examinations.
 - Attorney Dolcino said the department felt these changes would give licensees additional time to provide documents during an examination.
- Section 6 would remove the requirement that a mortgage loan originator must be licensed in their home state, especially if they're not doing mortgage business in that state.
 - As a result of the pandemic, there have been more people working from their own residencies, which might be out-of-state.
 - Currently, the statute could be interpreted as meaning a mortgage loan originator must be licensed in their home state, even if they're teleworking.
- Section 7 would align the provisions for examinations of family trust companies with the provisions that apply to other chartered institutions. Additionally, this section would clarify that the Commissioner can conduct examinations more frequently than every 36 months if it's deemed necessary.

- Sections 8 through 10 would clarify that a depository bank can operate as a benefit corporation.
 - These sections would provide clarity to the two banks in New Hampshire that are currently operating as benefit corporations.
- Section 11 would clarify that credit union boards can delegate authority to committees, oversee committees, and require committees or subcommittees to retain meeting minutes.
 - This section would align with the provisions that currently exist for depository banks.
- Section 12 would allow the Commissioner and the Deputy Commissioner to engage in commonly understood loans, such as car loans or mortgages, without unnecessary restrictions.
 - The current restrictions in place were instituted before the adoption of the ethics code.
 - Attorney Dolcino said the department felt that the ethics code already does control for circumstances, such as inappropriate lending, which could affect the Commissioner and the Deputy Commissioner.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

AJ

Date Hearing Report completed: April 21, 2021

Speakers

Commerce Committee Testify List for Bill HB312 on 2021-04-20

Support: 10 Oppose: 0 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Little, Jerry	Gerald.H.Little@banking.nh.gov	603.271.8684	State Agency Staff	NH Banking Department	Support	Yes
Dolcino, Chiara (Key-are-rah)	chiara.g.dolcino@banking.nh.gov	602 271-3561	State Agency Staff	NH Banking Department	Support	Yes
Little, Commissioner Gerald	gerald.h.little@banking.nh.gov	603 271-3562	State Agency Staff	NH Banking Department	Support	No
Schutte, Raeleen	raeleen.schutte@banking.nh.gov	271-3562	State Agency Staff	NH Banking Department	Support	No
Wells, Todd	todd.a.wells@banking.nh.gov	271-3562	State Agency Staff	NH Banking Department	Support	No
Hale, Ryan	rhale@nhbankers.com	Not Given	A Lobbyist	NH Bankers	Support	No
Prasol, Tom	thomas.prasol@demers-prasol.com	603.228.1498	A Lobbyist	Mortgage Bankers and Brokers Assoc. of New Hampshire	Support	No
Perlow, Glenn	glenn.perlow@nhtrustcouncil.com	Not Given	A Lobbyist	NH Trust Council	Support	No
Potucek, John	potucek1@comcast.net	16034329049	An Elected Official	Myself	Support	No
COLLINS, dave	dgc@rypgranite.com	603.491.8434	A Lobbyist	NH Credit Unions	Support	No

Testimony



State of New Hampshire Banking Department

53 Regional Drive, Suite 200
Concord, New Hampshire 03301

Telephone: (603) 271-3561
FAX: (603) 271-1090 or (603) 271-0750

April 20, 2021

Testimony of the New Hampshire Banking Department on HB 312 Senate Commerce Committee

The New Hampshire Banking Department is requesting the changes proposed in HB 312 in order to clarify existing laws regulating both chartered and licensed financial institutions. The Department believes these adjustments will help make existing statutes less confusing, will formalize longstanding interpretation of existing law, or will eliminate requirements that the Department believes are obsolete or unnecessary.

The following table summarizes the changes requested.

Bill Section(s)	Purpose and Summary of Requested Amendments
1-5 & 13	<p>Clarifies and extends deadlines for providing files or documents in the examination of consumer credit licensees</p> <ul style="list-style-type: none"> Amendments apply to retail sellers and sales finance companies; mortgage bankers, brokers, and servicers; small loan lenders; debt adjusters; and money transmitters. Clarifies statutory deadlines and provides for longer timeframe for producing files or documents. Transfers examination deadlines in chapter 399-G (money transmitters) from 399-G:11,II to 399-G:13 to provide consistency with other consumer credit chapters.
6	<p>Clarifies the home state licensing requirement for mortgage loan originators.</p> <ul style="list-style-type: none"> Addresses the COVID related increase in MLOs teleworking from their personal residences. Clarifies current law that could be read to require the MLO be licensed in their "home state" regardless of whether the MLO engages in any mortgage business with the residents of that state.
7	<p>Provides that family trust companies may be examined more frequently than every 36 months if the commissioner deems it necessary.</p> <ul style="list-style-type: none"> Brings family trust examination provisions in line with examination provisions for all other chartered institutions.
8-10	<p>Clarifies that a depository bank may elect to operate as a benefit corporation under RSA 293-C</p> <ul style="list-style-type: none"> Currently two depository banks have elected benefit corporation status. Changes will clarify that depository banks may elect benefit corporation status.
11	<p>Establishes requirements applicable to credit union boards who delegate to committees.</p> <ul style="list-style-type: none"> Clarifies the provisions applicable to credit union boards and committees concerning: <ul style="list-style-type: none"> - Delegation of authority from the board to a committee; - The obligation of a committee to keep meeting minutes; and - Board oversight of committees, to include review of committee minutes.
12	<p>Adjusts restrictions on loans and other financial transactions that disqualify the commissioner or deputy commissioner from serving in his or her role</p> <ul style="list-style-type: none"> These are the same amendment requested in the 2020 session in HB 1437. Modernize existing law to conform to ethics code applicable to state officials.

Voting Sheets

Senate Commerce Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # HB 312

Hearing date: 4/20/21

Executive Session date: 4/20/21

Motion of: OTP Vote: 5-0

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

Motion of: CONSENT Vote: 5-0

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

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<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: SEN. FRENCH

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, April 22, 2021

THE COMMITTEE ON Commerce

to which was referred **HB 312**

AN ACT

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

Having considered the same, the committee recommends that the Bill

ought to pass

BY A VOTE OF: 5-0

Senator Harold French
For the Committee

At the request of the New Hampshire Banking Department, this bill would clarify and update certain statutes governing chartered and licensed institutions. Sections 1 through 5 and 13 would clarify and extend deadlines that are related to the examination of consumer credit licensees. Section 6 would clarify that mortgage loan originators don't have to be licensed in their home state, especially if they are not doing business in their home state. Section 7 would clarify that the Commissioner can conduct examinations on family trust companies more than every 36 months if deemed necessary. Sections 8 through 10 would clarify that it is permissible for a depository bank to operate as a benefit corporation. Section 11 would clarify that credit union boards can oversee and delegate authority to committees as well as require committees or subcommittees to keep minutes. Finally, Section 12 would allow the Commissioner and Deputy Commissioner to participate in certain loans, such as car or mortgage loans, without unnecessary restrictions.

Aaron Jones 271-4063

FOR THE CONSENT CALENDAR

COMMERCE

HB 312, relative to deadlines in consumer credit applications, licensing requirements for mortgage loan originators, examinations of family trust companies, delegation by credit union boards to committees, qualifications of the banking commissioner, and authorizing depository banks to elect benefit corporation status.

Ought to Pass, Vote 5-0.

Senator Harold French for the committee.

At the request of the New Hampshire Banking Department, this bill would clarify and update certain statutes governing chartered and licensed institutions. Sections 1 through 5 and 13 would clarify and extend deadlines that are related to the examination of consumer credit licensees. Section 6 would clarify that mortgage loan originators don't have to be licensed in their home state, especially if they are not doing business in their home state. Section 7 would clarify that the Commissioner can conduct examinations on family trust companies more than every 36 months if deemed necessary. Sections 8 through 10 would clarify that it is permissible for a depository bank to operate as a benefit corporation. Section 11 would clarify that credit union boards can oversee and delegate authority to committees as well as require committees or subcommittees to keep minutes. Finally, Section 12 would allow the Commissioner and Deputy Commissioner to participate in certain loans, such as car or mortgage loans, without unnecessary restrictions.

Docket of HB312

Docket Abbreviations

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

Official Docket of HB312.:

Date	Body	Description
1/9/2021	H	Introduced (in recess of) 01/06/2021 and referred to Commerce and Consumer Affairs HJ 2 P. 43
1/20/2021	H	Public Hearing: 01/26/2021 09:30 am Members of the public may attend using the following links To join the webinar: https://www.zoom.us/j/98678901926 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/2/2021	H	==CANCELLED== Executive Session: 02/09/2021 01:15 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/94408830780
3/2/2021	H	Executive Session: 03/02/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95215897452
3/3/2021	H	==CONTINUED== Executive Session: 03/03/2021 01:30 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/98917516497 (if necessary)
3/12/2021	H	Committee Report: Ought to Pass with Amendment #2021-0093h (Vote 18-0; CC) HC 18 P. 4
4/7/2021	H	Amendment #2021-0093h : AA VV 04/07/2021 HJ 5 P. 5
4/7/2021	H	Ought to Pass with Amendment 2021-0093h: MA VV 04/07/2021 HJ 5 P. 5
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 HJ 5 P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Commerce; SJ 11
4/15/2021	S	Remote Hearing : 04/20/2021, 09:45 am; Links to join the hearing can be found in the Senate Calendar; SC 20
4/22/2021	S	Committee Report: Ought to Pass, 04/29/2021; Vote 5-0; CC; SC 21
4/29/2021	S	Ought to Pass : RC 24Y-0N, MA; OT3rdg; 04/29/2021; SJ 13
5/17/2021	S	Enrolled Adopted, VV, (In recess 05/13/2021); SJ 16
5/17/2021	H	Enrolled (in recess of) 04/09/2021 HJ 7 P. 104
5/27/2021	H	Signed by Governor Sununu 05/25/2021; Chapter 51; Eff: 07/24/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 312

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

N/A 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)

___ 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:

Aaron Jones
Committee Aide

7/21/21
Date

Senate Clerk's Office 