

CHAPTER 115
HB 648-FN - FINAL VERSION

19Mar2019... 0669h
8May2019... 1758-EBA

2019 SESSION

19-0778
11/04

HOUSE BILL ***648-FN***

AN ACT defining and regulating service entities.

SPONSORS: Rep. Luneau, Merr. 10

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill defines service entity and establishes parameters under which depository banks and credit unions may engage with service entities.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT defining and regulating service entities.

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

1 115:1 New Subparagraph; Banks and Banking; Banks and Credit Unions; Definitions. Amend
2 RSA 383-A:2-201(a) by inserting after subparagraph (27) the following new subparagraph:

3 (27-a) "Financial institution" means any state bank or credit union and any similar
4 institution organized under the provisions of federal law.

5 115:2 New Subparagraph; Banks and Banking; Banks and Credit Unions; Definitions. Amend
6 RSA 383-A:2-201(a) by inserting after subparagraph (48) the following new subparagraph:

7 (48-a) "Service entity" means a corporation, limited liability company, limited
8 partnership, or other legal entity which primarily provides activities or services to or in support of
9 the routine operations of depository banks and credit unions. "Service entity" includes "service
10 organization" and "service corporation."

11 115:3 New Section; Banks and Credit Unions; Service Entities. Amend RSA 383-A by inserting
12 after section 5-511 the following new section:

13 383-A:5-512 Service Entities.

14 (a) The purpose of this section is to maintain competitive equality between federally
15 chartered and state-chartered institutions while providing for the safe and sound operation of state-
16 chartered institutions.

17 (b) Subject to any limitations set forth in the Depository Bank Act (RSA 383-B) and the
18 Credit Union Act (RSA 383-E), a depository bank or credit union may engage with a service entity to
19 the same extent it is permissible for a federal credit union, national bank, or federal savings bank or
20 its subsidiaries to do so under federal law.

21 (c) For the purposes of this section, to engage with a service entity means to establish,
22 acquire, make loans to, contract with, or invest in the equity interest, obligations, or other securities
23 of a service entity, or to otherwise participate in or utilize the service of such service entity, whether
24 individually or together with other depository banks, credit unions, or other financial institutions.

25 (d) A depository bank or credit union shall maintain, or shall contract with the service
26 entity to maintain, sufficient records related to the depository bank's or credit union's engagement
27 with the service entity to enable the commissioner to determine whether the depository bank or
28 credit union is in compliance with the provisions of this chapter and any limitations set forth in the
29 Depository Bank Act (RSA 383-B), and the Credit Union Act (RSA 383-E).

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(e) If any proposed engagement with a service entity is not expressly enumerated as a permissible engagement under federal law, but falls within the intent of federal law, the commissioner may authorize the proposed engagement by rule or order, provided such engagement is consistent with the purpose of this section, supports the general business needs of the depository bank or credit union, promotes the interests of its customers, and will not jeopardize the safe and sound operation of the depository bank or credit union.

115:4 Bank Commissioner; Duties. Amend RSA 383:9, I to read as follows:

I. The commissioner shall have general supervision of and shall conduct examinations of all state banks, trust companies, family trust companies, credit unions, and other entities licensed by the department as may be designated by law from time to time. ~~[He or she may inspect the books of those entities and their papers, notes, bonds, and other evidences of debt.]~~ ***The commissioner may also examine a service entity that engages with a state chartered institution or that otherwise operates in this state, and such examination may be conducted in conjunction with or independently of any examination of a depository bank or credit union. The commissioner may also enter into agreements with federal and state regulatory authorities to examine or participate in the examination of a service entity and to share and protect the confidentiality of any examination report, work papers, or other examination information of the other state or federal regulatory authority. The commissioner may inspect the books of any entity under examination, and their papers, notes, bonds, and other evidences of debt.*** By that examination, the commissioner shall determine the true financial condition of the entities, their ability to perform their engagements, and whether they have violated any provision of law.

115:5 Credit Unions; Powers of Credit Unions; Limitations. Amend RSA 383-E:4-403(e) through (g) to read as follows:

(e) A credit union may, in total, invest or lend up to 20 percent of its net worth in or to any single service entity, provided all of the following conditions are met:

(1) The service entity is structured to limit the credit union's exposure to loss;

(2) The service entity primarily serves credit unions and the membership of affiliated credit unions; and

(3) A credit union's aggregate investment in or loans to all service entities do not exceed 50 percent of its net worth.

(f) For the purposes of paragraph (e), "net worth" means the net worth as reported on the National Credit Union Administration Call Report Form 5300.

(g) The commissioner may grant a waiver of the 20 percent maximum investing or lending threshold in paragraph (e) if the credit union's aggregate investment in or

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1 *loans to all service entities do not exceed 50 percent of its net worth and if the credit union*
2 *can demonstrate that:*

3 *(1) The credit union exceeds the 20 percent limitation in paragraph (e) due*
4 *to investments or loans to a service entity that engages solely in originating or servicing*
5 *residential mortgage loans or both, where all such residential mortgages meet the*
6 *definition of a qualified mortgage as that term is defined in 15 United States Code, Section*
7 *1639c(b)(2)(A).*

8 *(2) The lending activities of the service entity are to and for the benefit of the*
9 *membership of the credit union.*

10 *(3) The loan to or investment in the service entity does not present an*
11 *unacceptable exposure to loss that adversely impacts the safety and soundness of the credit*
12 *union.*

13 *(h) Whenever in the opinion of the commissioner the condition of any credit union is*
14 *such that the commissioner deems it unwise for the credit union to invest in any preferred or*
15 *common stocks, including shares of investment trusts, he or she may by written order forbid such*
16 *credit union to make such investment, and said credit union shall not thereafter make such*
17 *investment until such order shall be revoked in writing.*

18 ~~[(f)]~~ *(i) No investment shall be made which, when added to investments of the same*
19 *category then held, shall cause the investments in that category to exceed the percentages permitted*
20 *for such category.*

21 ~~[(g)]~~ *(j) In determining whether an investment complies with the limitations imposed by*
22 *this section, the applicable limitation shall be applied to the condition of the credit union at the time*
23 *of making such investment.*

24 115:6 Effective Date.

25 I. Section 5 of this act shall take effect January 1, 2020.

26 II. The remainder of this act shall take effect 60 days after its passage.

Approved: June 21, 2019

Effective Date:

I. Section 5 shall take effect January 1, 2020.

II. Remainder shall take effect August 20, 2019