

CHAPTER 194
HB 610-FN - FINAL VERSION

24Jun2021... 2015CofC
24Jun2021... 2076EBA

2021 SESSION

21-0545
11/04

HOUSE BILL **610-FN**

AN ACT 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.

SPONSORS: Rep. Hunt, Ches. 11

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill:

I. Requires retail sellers, sale finance companies, small loan lenders, debt adjusters, and money transmitters to license and report through NMLA, and clarifies the filing deadlines for call reports under RSA 397-A.

II. Clarifies the circumstances under which background investigations are conducted for trust executive officers, and provides for removal of directors or officers by the commissioner.

III. Adjusts fees for filings by state chartered institutions.

IV. Requires payment of assessment by institutions seeking approval to dissolve or convert.

V. Establishes minimum interest rates tied to federal funds interest rates set by the Federal Open Market Committee.

VI. Authorizes the department to transmit consumer complaints via email rather than by certified mail.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT 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.

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

1 194:1 New Paragraph; Retail Installment Sales of Motor Vehicles; Definitions; Nationwide
2 Multistate Licensing System and Registry. Amend RSA 361-A:1 by inserting after paragraph VII
3 the following new paragraph:

4 VII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing
5 system and facility developed and maintained by the Conference of State Bank Supervisors and the
6 American Association of Residential Mortgage Regulators, or their successors, for the licensing and
7 registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers,
8 and other non-depository financial service licensees, including retail sellers and sales finance
9 companies.

10 194:2 Licensing of Sales Finance Companies and Retail Sellers Required. Amend the
11 introductory paragraph of RSA 361-A:2, II(a) to read as follows:

12 (a) The application for such license shall be in writing and verified ~~[on a form prescribed~~
13 ~~by the commissioner]~~ ***through the Nationwide Multistate Licensing System and Registry***
14 ***using the Nationwide Multistate Licensing System and Registry form.*** The application shall
15 contain the name of the applicant; the tax applicant's identification number; date of incorporation, if
16 incorporated; the address where the business is or is to be conducted and similar information as to
17 any branch office of the applicant; the trade name, if any, under which the applicant proposes to
18 conduct such business; and such other pertinent information as the commissioner may require. The
19 application shall include a list of the names and resident addresses of principals and the name of any
20 person occupying a similar status or performing similar functions. Each principal shall provide his
21 or her social security numbers and shall authorize the commissioner to conduct a background check.
22 The applicant shall submit any other information that the commissioner may require including, but
23 not limited to, the applicant's form and place of organization, the applicant's proposed method of
24 doing business, the qualifications and business history of the applicant and those persons listed in
25 the application, and in the case of sales finance companies, the applicant's financial condition and
26 history. The applicant shall disclose if any injunction or administrative order has been issued
27 against the applicant or any of its principals listed in the application and whether the applicant or

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 2 -

1 any of its principals have been convicted of a misdemeanor involving financial services or a financial
2 services-related business, or any fraud, false statements or omissions, theft or any wrongful taking
3 of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of
4 these offenses, or convicted of any felony, prior to the commissioner's approval of such change.

5 194:3 Retail Installment Sales of Motor Vehicles; Annual Report. Amend RSA 361-A:2-b, I(a)-(c)
6 to read as follows:

7 (a) Each sales finance company licensee shall file, under oath, an annual report [~~with~~
8 ~~the commissioner~~] ***through the Nationwide Multistate Licensing System and Registry*** on or
9 before March 31 each year concerning operations for the preceding year or license period ending
10 December 31 upon a form prescribed by the commissioner.

11 (b) A person who surrenders, withdraws, or does not renew a license shall file the
12 annual report as required in subparagraph (a), notwithstanding the fact that he or she is not
13 licensed on the date that the report is due.

14 (c) Each sales finance company shall also file, under oath, its financial statement [~~with~~
15 ~~the commissioner~~] ***through the Nationwide Multistate Licensing System and Registry*** within
16 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance
17 with generally accepted accounting principles and shall include a balance sheet, income statement,
18 statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial
19 statement is not audited, a certification statement shall be attached and signed by a duly authorized
20 officer of the sales finance company. The certification statement shall state that the financial
21 statement is true and accurate to the best of the officer's belief and knowledge.

22 194:4 New Paragraph; Regulation of Small Loans, Title Loans, and Payday Loans; Definitions.
23 Amend RSA 399-A:1 by inserting after paragraph XII the following new paragraph:

24 XII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing
25 system and facility developed and maintained by the Conference of State Bank Supervisors and the
26 American Association of Residential Mortgage Regulators, or their successors, for the licensing and
27 registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers,
28 and other non-depository financial service licensees, including small loan lenders, title loan lenders
29 and payday loan lenders.

30 194:5 Regulation of Small Loans, Title Loans; and Payday Loans; Application and Fees. Amend
31 the introductory paragraph of RSA 399-A:4, I to read as follows:

32 I. Every applicant for licensing under this chapter shall file with the commissioner a written
33 verified application through the Nationwide Multistate Licensing System and Registry, using the
34 Nationwide Multistate Licensing System and Registry form [~~or providing all the information~~
35 ~~required on the application developed by the Nationwide Multistate Licensing System and Registry~~]
36 which shall include, but is not limited to, the following information:

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 3 -

1 194:6 Regulation of Small Loans, Title Loans, and Payday Loans; Reporting and Filing
2 Requirements. Amend RSA 399-A:10, I to read as follows:

3 I.(a) Each licensee shall file, under oath, an annual report [~~with the commissioner~~] ***through***
4 ***the Nationwide Multistate Licensing System and Registry*** on or before March 31 each year
5 concerning its business and operations for the preceding calendar year or license period ending
6 December 31 in the form prescribed by the commissioner.

7 (b) Each licensee shall also file, under oath, its financial statement [~~with the~~
8 ~~commissioner~~] ***through the Nationwide Multistate Licensing System and Registry*** within 90
9 days from the date of its fiscal year end. The financial statement shall be prepared in accordance
10 with generally accepted accounting principles and shall include a balance sheet, income statement,
11 statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial
12 statement is not audited, a certification statement shall be attached and signed by a duly authorized
13 officer of the licensee. The certification statement shall state that the financial statement is true
14 and accurate to the best of the officer's belief and knowledge.

15 194:7 New Paragraph; Debt Adjustment Services; Definitions. Amend RSA 399-D:1 by inserting
16 after paragraph XXIII the following new paragraph:

17 XXIII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing
18 system and facility developed and maintained by the Conference of State Bank Supervisors and the
19 American Association of Residential Mortgage Regulators, or their successors, for the licensing and
20 registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers,
21 and other non-depository financial service licensees, including debt adjusters.

22 194:8 Debt Adjustment Services; Application and Fees. Amend the introductory paragraph of
23 RSA 399-D:4, I(a) to read as follows:

24 (a) To be considered for licensing, each person shall complete and file with the
25 department one verified application through the Nationwide Multistate Licensing System and
26 Registry, using the Nationwide Multistate Licensing System and Registry form [~~or providing all the~~
27 ~~same information required on the application developed by using the Nationwide Multistate~~
28 ~~Licensing System and Registry,~~] which shall include, but not be limited to, the following information:

29 194:9 Debt Adjustment Services; Reporting and Filing Requirements. Amend RSA 399-D:9, I(a)
30 and the introductory paragraph of I(b) to read as follows:

31 (a) Each licensee shall file, under oath, an annual report [~~with the banking department~~]
32 ***through the Nationwide Multistate Licensing System and Registry*** on or before March 31 each
33 year concerning operations for the preceding calendar year or license period ending December 31 in
34 the form prescribed by the commissioner.

35 (b) Each licensee shall also file, under oath, its financial statement [~~with the~~
36 ~~commissioner~~] ***through the Nationwide Multistate Licensing System and Registry*** within 90
37 days from the date of its fiscal year end. If the financial statement is not audited, a certification

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 4 -

1 statement shall be attached and signed by a duly authorized officer of the licensee. The certification
2 statement shall state that the financial statement is true and accurate to the best of the officer's
3 belief and knowledge:

4 194:10 New Paragraph; Licensing of Money Transmitters; Definitions. Amend RSA 399-G:1 by
5 inserting after paragraph XVII the following new paragraph:

6 XVII-a. "Nationwide Multistate Licensing System and Registry" means a national licensing
7 system and facility developed and maintained by the Conference of State Bank Supervisors and the
8 American Association of Residential Mortgage Regulators, or their successors, for the licensing and
9 registration of mortgage loan originators, mortgage lenders, mortgage servicers, mortgage brokers,
10 and other non-depository financial service licensees, including money transmitters.

11 194:11 Licensing of Money Transmitters; Application and Fees. Amend the introductory
12 paragraph of RSA 399-G:4, I(a) to read as follows:

13 (a) To be considered for licensing, each person shall complete and file with the
14 department one verified application through the Nationwide Multistate Licensing System and
15 Registry, using the Nationwide Multistate Licensing System and Registry form ~~[, or providing all the~~
16 ~~same information required on the application developed by the Nationwide Multistate Licensing~~
17 ~~System and Registry,]~~ which shall include but not be limited to the following information :

18 194:12 Licensing of Money Transmitters; License Surrender. Amend RSA 399-G:8, I to read as
19 follows:

20 I. A licensee who ceases to engage in the business of money transmission at any time during
21 a license year for any cause shall surrender such principal license and authorized delegate
22 registrations, if any, and within 15 calendar days of such cessation shall cause to be published in a
23 newspaper of general circulation in the licensee's market area a notice to such effect, and shall file
24 ~~[an annual]~~ **any required** report pursuant to RSA 399-G:10 ~~[within 15 days of such cessation]~~. The
25 commissioner may adopt rules, in accordance with RSA 541-A, relative to such notice and the
26 process for surrender.

27 194:13 Licensing of Money Transmitters; Reporting and Filing Requirements. Amend RSA 399-
28 G:10, I-V to read as follows:

29 I. Each licensee shall ~~[file, under oath, an annual report with the banking department on or~~
30 ~~before March 31 each year concerning operations for the preceding year or license period ending~~
31 ~~December 31 upon the form prescribed by the department]~~ **submit to the Nationwide Multistate**
32 **Licensing System and Registry reports of condition, which shall be filed within the time**
33 **prescribed by the Nationwide Multistate Licensing System and Registry, in such form and**
34 **shall contain such information as the Nationwide Multistate Licensing System and**
35 **Registry may require, including but not limited to the money services business call report.**

36 II. Each licensee shall file, under oath, its financial statement ~~[with the commissioner]~~
37 **through the Nationwide Multistate Licensing System and Registry** within 90 days from the

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 5 -

1 date of its fiscal year end. The financial statement shall be prepared in accordance with generally
2 accepted accounting principles with appropriate note disclosures and, unless excepted by an order
3 from the commissioner for hardship reasons, shall be audited by an independent certified public
4 accountant. The financial statement shall include or be accompanied by a calculation that reflects
5 the fiscal year's average daily outstanding money transmissions as defined by RSA 399-G:1, IV in
6 United States dollars. A money transmitter's financial statement shall include:

- 7 (a) A balance sheet;
- 8 (b) Income statement;
- 9 (c) Statement of changes in owners' equity;
- 10 (d) A cash flow statement; and
- 11 (e) A statement of net worth.

12 III. The department shall publish its analysis of the information required in the licensee's
13 ~~annual~~ **call** report as a part of the commissioner's annual report.

14 IV. Any money transmitter failing to file either the ~~annual~~ **call** report or the financial
15 statement required by this section within the time prescribed may be required to pay to the banking
16 department a penalty ~~of~~. **The penalty shall be** \$25 for each calendar day the ~~annual~~ **call** report
17 or financial statement is overdue up to a maximum penalty of **\$625 per call report or** \$2,500 per
18 ~~report or~~ **financial** statement.

19 V. In addition to the ~~annual~~ **call** report and financial statement, the banking department
20 may require such additional regular or special reports as it may deem necessary for the proper
21 supervision of licensees under this chapter.

22 194:14 Licensing of Money Transmitters; Administration by Commissioner; Rulemaking.
23 Amend RSA 399-G:24, II(c) to read as follows:

- 24 (c) ~~Annual~~ **Call** reports required by RSA 399-G:10.

25 194:15 Nondepository Mortgage Bankers, Brokers, and Servicers; Reporting. Amend RSA 397-
26 A:13, V to read as follows:

27 V. Any mortgage banker, mortgage broker, or mortgage servicer failing to file the mortgage
28 call report required by this section within the time prescribed **by the Nationwide Multistate**
29 **Licensing System and Registry** may be required to pay to the department a penalty of \$25 for
30 each calendar day the mortgage call report is overdue up to a maximum penalty of \$625 per
31 mortgage call report.

32 194:16 Organization of State Banks; Application. Amend RSA 383-A:3-305(e)(6) to read as
33 follows:

- 34 (6) ~~[The commissioner may require]~~ **In addition to paying the cost for any**
35 **examination or investigation of the background and criminal history of any person**
36 **pursuant to this section,** the organizer ~~to~~ **shall** pay the actual costs of each background
37 investigation and criminal history records check.

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 6 -

1 194:17 Trust Company Act; Number of Directors. Amend RSA 383-C:6-601 to read as follows:
2 383-C:6-601 [~~Number of~~] Directors.

3 (a) The board of directors of a trust company shall be composed of at least 5 directors. A
4 director need not be a resident of New Hampshire or a citizen of the United States, unless otherwise
5 required by the commissioner in consideration of the trust company's safety and soundness.

6 (b) *Every new director shall submit to a background investigation and criminal*
7 *history records check, to include submission of financial and other information in*
8 *accordance with RSA 383-A:3-305(e). A trust company shall submit notice of any material*
9 *change related to the background investigation and criminal history records check of any*
10 *director or any new information related to the experience, ability, standing, competence,*
11 *trustworthiness, and integrity of a director that could jeopardize the safe and sound*
12 *operation of the trust company within 30 days of learning of such change. The cost of any*
13 *examination or investigation of the background information and criminal history shall be*
14 *paid by the trust company.*

15 194:18 New Section; Trust Company Act; Removal of Directors and Officers by Commissioner.
16 Amend RSA 383-C by inserting after section 6-603 the following new section:

17 383-C:6-604 Removal of Directors or Officers by Commissioner. In addition to the grounds for
18 removal set forth in RSA 383-A:9-902, the commissioner may also remove a director or officer of a
19 trust company if, in the opinion of the commissioner, the director or officer does not possess the
20 experience, ability, standing, competence, trustworthiness, and integrity to ensure the safe and
21 sound operation of the trust company. The commissioner shall act in accordance with the procedure
22 described in RSA 383-A:9-902 for any such removal.

23 194:19 Family Trust Company Act; Board of Directors. Amend RSA 383-D:8-801(a) to read as
24 follows:

25 (a) A family trust company shall have a board of directors, and that board of directors
26 must have not less than three members. A director need not be a resident of New Hampshire or a
27 citizen of the United States, unless otherwise required by the commissioner in consideration of the
28 family trust company's safety and soundness. RSA 383-C:6-601(a) shall not apply to family trust
29 companies.

30 194:20 Bank and Credit Unions; Regulatory Approval Procedures; Fee Schedule. Amend RSA
31 383-A:6-609 to read as follows:

32 383-A:6-609 Fee Schedule.

33 (a) The commissioner shall charge a filing fee to each person for services rendered by
34 the department in reviewing a notice or application. Sums collected under this section shall be
35 payable to the state treasurer as restricted revenue and credited, in accordance with the banking
36 division's accounting unit designation, to the appropriation for the commissioner. Charges for
37 services shall be billed as follows:

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 7 -

- 1 ~~[(a)]~~ **(1)** Fee for new state bank or credit union charter: [~~\$10,000~~] **\$15,000**
- 2 ~~[(b)]~~ **(2)** Fee for domestication of foreign trust company: \$7,500
- 3 ~~[(c)]~~ **(3)** Fee for charter conversion, combination, acquisition, change in control, share
- 4 exchange, reorganization, or approval of trust powers: \$2,500
- 5 ~~[(d)]~~ **(4)** Fee for the dissolution of a trust company: \$2,000
- 6 ~~[(e)]~~ **(5)** Fee for a reduction in a depository bank's capital, change in business plan or
- 7 change in required capital of a trust company, amendment to a state bank's organizational
- 8 instrument, amendment of a credit union's bylaws, or formation of a subsidiary entity that requires
- 9 approval of the commissioner: \$500
- 10 ~~[(f)]~~ **(6)** Fee for a new branch, loan production office and trust company office: \$500
- 11 ~~[(g)]~~ **(7)** Fee for a relocation or termination of a branch, loan production office or trust
- 12 company office: \$100
- 13 ~~[(h)]~~ **(8)** Fee to issue a certificate of existence: \$50
- 14 ~~[(i)]~~ **(9)** Fee for a reservation or approval of a name or trade name: \$50

15 **(b) If at any time the commissioner determines that the cost to complete the**

16 **investigation or examination of the notice or application has or will exceed the fee set forth**

17 **in subparagraphs (a)(1)-(9), the commissioner shall cease further review, notify the filer of**

18 **this determination and advise that the filer may withdraw the notice or application. If the**

19 **filer elects to withdraw the notice or application pursuant to this paragraph, the**

20 **commissioner shall refund the filing fee, minus such costs of investigation or examination**

21 **that been incurred during the Department's review. If the filer informs the commissioner it**

22 **does not elect to withdraw the notice or application, the commissioner shall continue the**

23 **review of the notice or application and the filer shall pay the additional investigation or**

24 **examination costs. The cost of the investigation or examination shall be determined in**

25 **accordance with the per diem examination charge established in RSA 383:11, I provided,**

26 **however, that the requirement that no entity shall be charged or pay less than one full day**

27 **shall not apply.**

28 194:21 New Paragraph; Bank Commissioner; Examination Costs. Amend RSA 383:11 by

29 inserting after paragraph IV the following new paragraph:

30 V. A state chartered institution that is dissolved or converted before the close of a fiscal

31 year, shall be responsible for payment of its pro rata share of the assessment for that fiscal year.

32 Prior to approving the dissolution or conversion of the institution, the commissioner, in the

33 commissioner's discretion, shall either:

34 (a) Impose requirements to ensure payment of the assessment after the approval of the

35 dissolution or conversion; or

36 (b) Collect payment of the assessment as calculated under paragraph II prior to approval

37 of the dissolution, or if the calculation of the assessment is not yet available and the commissioner

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 8 -

1 determines the last assessment imposed as well as the institution's share of the last assessment
2 imposed, is reflective of the institution's obligation for the current fiscal year, the commissioner may
3 instead collect payment of the assessment based on a pro rata portion of the last assessment imposed
4 on the institution.

5 194:22 Depository Bank Act; Banking Business; Loans and Investments. Amend RSA 383-B:3-
6 303(a)(7)(E) to read as follows:

7 (E) Any depository bank which requires or accepts moneys for deposit in escrow
8 accounts maintained for the payment of taxes or insurance premiums related to loans on property
9 secured by real estate mortgages shall credit each escrow account with interest at a ~~[minimum]~~ rate
10 ~~[set for a 6 month period by the commissioner on February 1 and August 1 of each year. The rate~~
11 ~~shall be one percent below the mean interest rate paid by depository banks on regular savings~~
12 ~~accounts during the applicable period. The commissioner shall post the rate on the department's~~
13 ~~website] **no lower than the highest target federal funds interest rate in the range set by the**~~
14 ~~**Federal Open Market Committee, minus one percent.**~~

15 194:23 Retail Installment Sales of Motor Vehicles; Consumer Inquiries. Amend the introductory
16 paragraph of RSA 361-A:4-a, I to read as follows:

17 I. Consumer complaints naming retail sellers or sales finance companies under this chapter,
18 which are filed in writing with the office of the commissioner, shall be forwarded via **electronic**
19 **mail or** certified or registered mail to the retail seller or sales finance company for response within
20 10 days of receipt by the department. Retail sellers or sales finance companies shall, within 10 days
21 after receipt of such complaint, send a written acknowledgment thereof to the consumer and the
22 banking department. Not later than 30 days following receipt of such complaint, the retail seller or
23 sales finance company shall conduct an investigation of the complaint and either:

24 194:24 Bank and Credit Unions; Consumer Complaints. Amend RSA 383-A:9-904, I to read as
25 follows:

26 I. Consumer complaints naming state banks or credit unions, which are filed in writing,
27 shall be forwarded via **electronic mail or** certified mail to the state bank or credit union for
28 response within 10 days of receipt by the department. Not later than 30 days following receipt of
29 such complaint, the state bank or credit union shall conduct an investigation of the complaint and
30 either:

31 194:25 Licensing of Nondepository Mortgage Bankers, Brokers, and Servicers; Consumer
32 Inquiries. Amend the introductory paragraph of RSA 397-A:15-a, I to read as follows:

33 I. Consumer complaints naming licensees under this chapter, which are filed in writing with
34 the office of the commissioner, shall be forwarded via **electronic mail or** certified mail to the
35 licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days
36 after receipt of such complaint, send a written acknowledgment thereof to the consumer and the

CHAPTER 194
HB 610-FN - FINAL VERSION
- Page 9 -

1 banking department. Not later than 30 days following receipt of such complaint, the licensee shall
2 conduct an investigation of the complaint and either:

3 194:26 Regulation of Small Loans, Title Loans, and Payday Loans; Consumer Inquiries. Amend
4 the introductory paragraph of RSA 399-A:12, I to read as follows:

5 I. Consumer complaints naming licensees under this chapter, which are filed in writing with
6 the office of the commissioner, shall be forwarded via **electronic mail or** certified or registered mail
7 to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10
8 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and
9 the banking department. Not later than 30 days following receipt of such complaint, the licensee
10 shall conduct an investigation of the complaint and either:

11 194:27 Debt Adjustment Services; Consumer Inquiries. Amend the introductory paragraph of
12 RSA 399-D:11, I to read as follows:

13 I. Consumer complaints naming licensees under this chapter, which are filed in writing with
14 the office of the commissioner, shall be forwarded via **electronic mail or** certified or registered mail
15 to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10
16 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and
17 the department. Not later than 30 days following receipt of such complaint, the licensee shall
18 conduct an investigation of the complaint and either:

19 194:28 Licensing of Money Transmitters; Consumer Inquiries. Amend the introductory
20 paragraph of RSA 399-G:12, I to read as follows:

21 I. Consumer complaints naming licensees under this chapter, which are filed in writing with
22 the office of the commissioner, shall be forwarded via **electronic mail or** certified or registered mail
23 to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10
24 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and
25 the department. Not later than 30 days following receipt of such complaint, the licensee shall
26 conduct an investigation of the complaint and either:

27 194:29 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 10, 2021
Effective Date: October 09, 2021

