

CHAPTER 238
HB 559 – FINAL VERSION

13Mar2013... 0587h
05/30/13 1591s
05/30/13 1921s
5June2013... 2082EBA

2013 SESSION

13-0809
08/04

HOUSE BILL **559**

AN ACT relative to the general banking laws of the state and relative to electronic funds transfers.

SPONSORS: Rep. Butler, Carr 7

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill:

I. Defines “qualified institutions” and details how such institutions are to be audited and inspected.

II. Requires criminal background checks for persons seeking to form a financial institution.

III. Details the relationship between the funds transfer provisions of the Uniform Commercial Code and the Electronic Fund Transfer Act.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the general banking laws of the state and relative to electronic funds transfers.

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

1 238:1 New Section; Privileges Not Affected by Disclosure. Amend RSA 383 by inserting after
2 section 10-f the following new section:

3 383:10-g Privileges Not Affected by Disclosure. Notwithstanding the exceptions to
4 confidentiality in RSA 383:10-b, the submission of any information to any federal banking agency,
5 state banking department, or foreign banking authority for any purpose in the course of any
6 supervisory or regulatory process shall not be construed as waiving, destroying, or otherwise
7 affecting any privilege such person may claim with regard to any information under federal or state
8 law as to any person other than such agency, department, or authority.

9 238:2 Annual Audits. Amend RSA 384:43 to read as follows:

10 384:43 Annual Audits.

11 I. The board of trustees or directors of every financial institution~~[, except credit unions,]~~
12 under the supervision of the bank commissioner **and subject to the exemptions in RSA 384:43-a**,
13 shall ~~[employ]~~ **engage** a certified public accountant ~~[or public accountant]~~, at least annually, to serve
14 as its auditor. ***Each financial institution shall give written notice to the bank commissioner***
15 ***of its engagement of an auditor at the time of its engagement and shall require its auditor***
16 ***to confirm the engagement in writing to the commissioner within 30 days of such***
17 ***engagement. Each financial institution shall give written notice to the bank commissioner***
18 ***of the termination of the engagement of an auditor at the time of such termination and***
19 ***shall require the auditor to confirm the termination in writing to the commissioner within***
20 ***30 days of such termination.***

21 II. ~~[The auditors selected in]~~ ***Any auditor engaged pursuant to*** paragraph I, shall
22 examine the books, accounts, and operating systems of the institution in such a manner as in ~~[their]~~
23 ***his or her*** judgment will result in an audit that is in agreement with generally accepted accounting
24 standards.

25 III. ~~[Institutions subject to this section may satisfy the requirements of paragraphs I and II~~
26 ~~by:~~

27 ~~(a) Engaging an independent external accounting firm which renders an audit report~~

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1 and opinion consistent with the duties of the auditor described in paragraph II; or

2 ~~(b) Employing an internal audit staff which conducts a continuing internal audit~~
3 ~~program, provided an independent external auditor reviews the internal audit procedures and~~
4 ~~reports to the board annually; or~~

5 ~~(c) Entering into an arrangement with the bank commissioner, approved by the directors~~
6 ~~by duly recorded vote and by the commissioner in writing, under which the commissioner makes one~~
7 ~~examination each year of the affairs of the institution. The expense of such examination shall be~~
8 ~~chargeable to and paid by the institution. The procedure for such payment shall be the same as for~~
9 ~~payments by institutions for cost of examinations under RSA 383:11. Sums collected under this~~
10 ~~section shall be payable to the state treasurer as restricted revenue and credited to the appropriation~~
11 ~~for the bank commissioner. Any such arrangement may be terminated by either party upon at least~~
12 ~~30 days notice in writing.~~

13 ~~IV.]~~ Each financial institution shall direct its auditor to provide, **and the auditor shall**
14 **provide**, the bank commissioner with a copy of its audit report, within 60 days after each is made
15 available to the financial institution. ~~[Reports on the review of internal audit program shall be~~
16 ~~submitted in a format prescribed by the commissioner in a rule adopted pursuant to RSA 541-A.]~~ All
17 such reports, memoranda, and correspondence remain the property of the individual financial
18 institution.

19 ~~V.]~~ **IV.** The bank commissioner shall, in the course of his **or her** regular official
20 examination of the institution and at such other times that he **or she** considers advisable, review
21 and analyze the work and reports of such accountants and auditors. **The auditors shall provide**
22 **the commissioner with such work and reports as the commissioner may reasonably request**
23 **provided such request is limited to matters that relate to the safety and soundness of the**
24 **institution.** If the commissioner determines that any audit is inadequate or substantially violates
25 the provisions of this section, he **or she** shall report his **or her** findings with instructions in writing
26 to the trustees or directors, who shall, within 30 days after receiving such report, cause the
27 institution to comply with the report and instructions.

28 238:3 New Section; Exemption to Annual Audit Requirement. Amend RSA 384 by inserting
29 after section 43 the following new section:

30 384:43-a Exemption to Annual Audit Requirement.

31 I. The commissioner may exempt a credit union from the annual audit requirement of
32 RSA 384:43 if the credit union demonstrates that:

33 (a) It can maintain its safety and soundness without the audit;

34 (b) The cost of an audit would be an undue financial burden on the credit union; and

35 (c) It has an alternate audit arrangement in place that will assure the commissioner
36 that its financial statements are true and accurate.

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1 II. The commissioner may revoke any exemption granted if, in his or her judgment, the
2 safety and soundness of the exempt credit union requires it.

3 238:4 Preliminary Audit. Amend RSA 394-B:41 to read as follows:

4 394-B:41 Preliminary Audit. ***If the commissioner grants a credit union an exemption to***
5 ***the external audit requirement under RSA 384:43-a***, the ***credit union's*** supervisory committee
6 shall at least semi-annually conduct or cause to be conducted an audit of the books and records and
7 an examination of the business and affairs of the credit union~~[, or, with the approval of the bank~~
8 ~~commissioner, the credit union may engage an independent professional auditor to conduct such an~~
9 ~~audit and examination at least annually]~~. The supervisory committee ~~[or such independent~~
10 ~~professional auditor]~~ shall conduct a thorough audit of receipts, disbursements, assets, and
11 liabilities. The supervisory committee ~~[or such independent professional auditor]~~ shall conduct
12 verification not less than every 2 years.

13 238:5 Election; Oath. Amend RSA 384:5 to read as follows:

14 384:5 Election; Oath.

15 ***I.*** Officers, directors, ~~[and]~~ trustees, ***and managers in the case of a limited liability***
16 ***company*** shall be elected ***or appointed*** as frequently as the charter or bylaws of the bank or
17 savings association may require, but not less than once every 3 years~~[, and they shall hold office~~
18 ~~until others are elected and qualified]~~.

19 ***II.*** All officers, directors, ~~[and]~~ trustees, ***and managers in the case of a limited liability***
20 ***company*** upon election ***or appointment***, shall be sworn to the faithful discharge of their duties~~;~~
21 ~~except that they shall be required to take an oath of office only on the first occasion of their election~~
22 ~~or appointment and shall not be required to take any such oath thereafter]~~.

23 238:6 Organization. Amend RSA 392:14 to read as follows:

24 392:14 Organization. The organizers shall adopt bylaws which may be incorporated in an
25 operating agreement if the company is a limited liability company, and shall also elect, or cause to be
26 elected, such directors or managers and officers as may be required by the organizational instrument
27 or bylaws. All directors, managers, and officers so elected shall be sworn to the faithful performance
28 of their duties ***in accordance with RSA 384:5***. A temporary clerk or secretary shall make and
29 attest a record of the proceedings until the clerk or secretary has been chosen and sworn, including a
30 record of such choice and qualification.

31 238:7 Oath. Amend RSA 394-B:30 to read as follows:

32 394-B:30 Oath. All directors, ~~[and]~~ ***all*** members of ***the*** supervisory ~~[and]~~ ***or*** credit committees,
33 ~~[as well as]~~ ***and*** all officers ~~[whom such directors may elect]~~ ***upon their election or appointment***
34 ***and at each re-election or re-appointment***, shall be sworn to the faithful performance of their
35 duties. A record of every such qualification shall be filed and preserved with the records of the
36 corporation.

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1 238:8 Duties; Commissioner. Amend RSA 383:9 to read as follows:

2 383:9 Duties.

3 I. The commissioner shall have general supervision of all banks (except national banks),
4 trust companies, building and loan associations, credit unions, Morris plan banks, small loan
5 companies, and other similar institutions in the state. ***Except as provided in RSA 383:9-d, he or***
6 ***she*** shall examine into the condition and management of all such institutions [~~at least~~] every 18
7 months [~~with the exception of highly rated institutions provided for in RSA 383:9-d~~], and more often
8 when necessary in his ***or her*** judgment or when so directed by the governor. [~~He~~] ***The***
9 ***commissioner*** may regulate the buying or selling of securities by [~~savings~~] banks for officers,
10 employees, or customers. He ***or she*** shall assign to the deputy commissioner and the assistants
11 appointed under RSA 383:7 such of his ***or her*** duties as he ***or she*** sees fit. ***In accordance with***
12 ***RSA 383:9-d, qualified institutions under RSA 383:9-a may be examined less often, but at no***
13 ***time shall the commissioner examine the condition and management of any institution less***
14 ***than every 36 months.***

15 II. [~~The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the duties~~
16 ~~assigned him by paragraph I.~~] ***The commissioner may conduct an examination at any***
17 ***location of the institution's operations, including any place where assets are located or***
18 ***where records are made, posted, or kept. The commissioner shall have the power to***
19 ***conduct such an examination outside the state of New Hampshire and outside the***
20 ***United States and its territories.***

21 ***III. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the***
22 ***duties assigned to him or her by this section.***

23 238:9 Examination of Qualified Institutions; Nondepository Trust Companies. Amend RSA
24 383:9-d to read as follows:

25 383:9-d Examination of [~~Highly Rated~~] ***Qualified*** Institutions; Nondepository Trust Companies.

26 I. [~~The bank commissioner may, at his or her discretion, waive one 18-month examination~~
27 ~~requirement under RSA 383:9 every 6 years for institutions which have consistently been given high~~
28 ~~ratings in past examinations. The commissioner may also substitute for an 18-month examination~~
29 ~~once every 6 years a report of a federal institution examining agency whose reports regularly include~~
30 ~~a report on New Hampshire institutions.] Within any 6-year period in which 4 18-month~~
31 ~~examinations are required under RSA 383:9, the commissioner may for [~~highly rated~~] institutions~~
32 ***qualified under paragraph II:***

33 (a) Waive one examination;

34 (b) Substitute for one examination a report of a federal bank examining agency whose
35 reports regularly include a report on New Hampshire banks; and

36 (c) Perform 2 examinations as required by 383:9.

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1 II. *An institution qualifies for examination treatment under paragraphs I and III*
2 *if:*

3 (a) *It has consistently been given high ratings in past exams;*

4 (b) *It is not currently subject to an enforcement proceeding or order; and*

5 (c) *The commissioner has deemed it prudent to apply this provision.*

6 **III.** The commissioner may, at his or her sole discretion, upon the written request of a
7 ~~[highly rated]~~ nondepository trust company ***qualified under paragraph II***, satisfy the
8 examination requirement of RSA 383:9, including modifications under paragraph I, for such trust
9 company through an off-premises examination of:

10 (a) An audit report satisfying the requirements of RSA 384:43, I and II if it is prepared
11 in accordance with RSA 384:43~~[- III(a) and (b)]~~, and a fiduciary audit conforming to applicable
12 generally accepted auditing standards; and

13 (b) Such other records and information of the institution as may be required by the
14 commissioner.

15 238:10 New Sections; Affiliates of Institutions; Nondepositions; Criminal History Records
16 Check. Amend RSA 383 by inserting after section 9-h the following new sections:

17 383:9-i Affiliates of Institutions.

18 I. For purposes of this section, “affiliate” shall have the same meaning as in the Federal
19 Reserve Act, 12 U.S.C. section 371c(b), and the regulations adopted thereunder.

20 II. In the course of conducting any examination, special examination, investigation, or
21 visitation of any institution under RSA 383:9, the commissioner shall, subject to the limitations of
22 federal law, have the jurisdiction and power to examine any affiliate of such institution. Such an
23 examination is limited to those issues which, in the determination of the commissioner, affect the
24 safe and sound operation of the institution and the relationship between the institution and the
25 affiliate.

26 383:9-j Nondepository Financial Institutions; Criminal History Records Check.

27 I. The department may complete a background investigation and criminal history records
28 check on the person or group of persons acting in concert who acquire directly or indirectly 10
29 percent or more of the beneficial ownership or control of the voting shares of a nondepository
30 financial institution, new officers, and directors and any person in a similar position or performing
31 similar functions. If the acquirer is a subsidiary, the department may complete a background
32 investigation and criminal history records check on the individuals who are the indirect owners, as
33 defined in RSA 397-A:1, VIII-a.

34 II. If required by the department, the persons described in paragraph I shall submit to the
35 department a notarized criminal history records release form, as provided by the New Hampshire
36 department of safety, division of state police, which authorizes the release of the person’s criminal

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1 records, if any. The person shall submit with the release form a complete set of fingerprints taken by
2 a qualified law enforcement agency or an authorized employee of the banking department. In the
3 event that the first set of fingerprints is invalid due to insufficient pattern, a second set of
4 fingerprints is necessary in order to complete the criminal history records check. If, after 2 attempts,
5 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal
6 history records check, accept police clearances from every city, town, or county where the person has
7 lived during the past 5 years.

8 III. The department shall submit the criminal history records release form to the division of
9 state police which shall conduct a criminal history records check through its records and through the
10 Federal Bureau of Investigation. Upon completion of the background investigation, the division of
11 state police shall release copies of the criminal conviction records to the department. The
12 department shall maintain the confidentiality of all criminal history records information received
13 pursuant to this paragraph.

14 IV. The department may require the incorporators to pay the actual costs of each
15 background investigation and criminal history records check.

16 238:11 Reports of Proscribed Activity. Amend RSA 384:36 to read as follows:

17 384:36 Reports of Proscribed Activity. Institutions subject to this chapter shall file with the
18 bank commissioner copies of reports required by the provisions of section 208.62 of the Federal
19 Reserve Board's Regulation H (12 C.F.R. **section** 208.62), Federal Deposit Insurance Corporation
20 regulations part 353 (12 C.F.R. **section** 353.1 et seq.), [~~and~~] National Credit Union Administration
21 regulations section [~~Part~~] 748.1(c) (12 C.F.R. **section** 748.1(c)), **and the Department of the**
22 **Treasury, Financial Crimes Enforcement Network Regulations, (31 C.F.R. chapter X)** as
23 may be amended from time to time. Reports required by this section shall be filed with the bank
24 commissioner at the same time such reports are filed with the institution's federal regulators. A
25 financial institution subject to this section, and any director, officer, employee, or agent of such
26 financial institution, that files a report pursuant to this section shall be protected from liability for
27 any disclosure contained therein. All reports filed with the commissioner under this section shall be
28 confidential and shall not be subject to subpoena or to the requirements of RSA 91-A, except that the
29 commissioner shall provide copies of such reports upon request to the New Hampshire department of
30 justice, criminal bureau.

31 238:12 Petition; Trust Companies; Criminal History Records Check. RSA 392:5, III is repealed
32 and reenacted to read as follows:

33 III.(a) The department may complete a background investigation and criminal history
34 records check on the petitioner's organizers, officers, and directors or managers, and any person in a
35 similar position or performing similar functions. The department may also complete a background
36 investigation and criminal history records check on any person, including an individual, that owns,

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1 beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or
2 more of the petitioner. If the petitioner is a subsidiary, the department may complete a background
3 investigation and criminal history records check on the individuals who are the indirect owners, as
4 defined in RSA 397-A:1, VIII-a.

5 (b) If required by the department, the persons described in subparagraph (a) shall
6 submit to the department a notarized criminal history records release form, as provided by the
7 New Hampshire department of safety, division of state police, which authorizes the release of the
8 person's criminal records, if any. The person shall submit with the release form a complete set of
9 fingerprints taken by a qualified law enforcement agency or an authorized employee of the banking
10 department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a
11 second set of fingerprints is necessary in order to complete the criminal history records check. If,
12 after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in
13 lieu of the criminal history records check, accept police clearances from every city, town, or county
14 where the person has lived during the past 5 years.

15 (c) The department shall submit the criminal history records release form to the division
16 of state police which shall conduct a criminal history records check through its records and through
17 the Federal Bureau of Investigation. Upon completion of the background investigation, the division
18 of state police shall release copies of the criminal conviction records to the department. The
19 department shall maintain the confidentiality of all criminal history records information received
20 pursuant to this paragraph.

21 (d) The department may require the petitioner to pay the actual costs of each
22 background investigation and criminal history records check.

23 IV. The failure of a petitioner to furnish required information, data, other material, or the
24 required fee within 30 days after a request may be considered an abandonment of the petition.

25 238:13 Petition; Banks' Criminal History Records Check. RSA 386-A:4, II is repealed and
26 reenacted to read as follows:

27 II.(a) The department may complete a background investigation and criminal history
28 records check on the petitioner's organizers, officers, and directors, trustees, or managers and any
29 person in a similar position or performing similar functions. The department may also complete a
30 background investigation and criminal history records check on any person, including an individual,
31 that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10
32 percent or more of the petitioner. If the petitioner is a subsidiary, the department may complete a
33 background investigation and criminal history records check on the individuals who are the indirect
34 owners, as defined in RSA 397-A:1, VIII-a.

35 (b) If required by the department, the persons described in subparagraph (a) shall
36 submit to the department a notarized criminal history records release form, as provided by the

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1 New Hampshire department of safety, division of state police, which authorizes the release of the
2 person's criminal records, if any. The person shall submit with the release form a complete set of
3 fingerprints taken by a qualified law enforcement agency or an authorized employee of the banking
4 department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a
5 second set of fingerprints is necessary in order to complete the criminal history records check. If,
6 after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in
7 lieu of the criminal history records check, accept police clearances from every city, town, or county
8 where the person has lived during the past 5 years.

9 (c) The department shall submit the criminal history records release form to the division
10 of state police which shall conduct a criminal history records check through its records and through
11 the Federal Bureau of Investigation. Upon completion of the background investigation, the division
12 of state police shall release copies of the criminal conviction records to the department. The
13 department shall maintain the confidentiality of all criminal history records information received
14 pursuant to this paragraph.

15 (d) The department may require the petitioner to pay the actual costs of each
16 background investigation and criminal history records check.

17 III. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the petition
18 required by paragraph I.

19 238:14 New Section; Savings Associations; Criminal History Records Check. Amend RSA 393 by
20 inserting after section 1-b the following new section:

21 393:1-c Savings Associations; Criminal History Records Check.

22 I. The department may complete a background investigation and criminal history records
23 check on the incorporators, officers and directors, and any person in a similar position or performing
24 similar functions. The department may also complete a background investigation and criminal
25 history records check on any person, including an individual, that owns, beneficially owns, has the
26 right to vote, or has the power to sell or direct the sale of 10 percent or more of the petitioner. If the
27 petitioner is a subsidiary, the department may complete a background investigation and criminal
28 history records check on the individuals who are the indirect owners, as defined in RSA 397-
29 A:1, VIII-a.

30 II. If required by the department, the persons described in paragraph I shall submit to the
31 department a notarized criminal history records release form, as provided by the New Hampshire
32 department of safety, division of state police, which authorizes the release of the person's criminal
33 records, if any. The person shall submit with the release form a complete set of fingerprints taken by
34 a qualified law enforcement agency or an authorized employee of the banking department. In the
35 event that the first set of fingerprints is invalid due to insufficient pattern, a second set of
36 fingerprints is necessary in order to complete the criminal history records check. If, after 2 attempts,

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1 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal
2 history records check, accept police clearances from every city, town, or county where the person has
3 lived during the past 5 years.

4 III. The department shall submit the criminal history records release form to the division of
5 state police which shall conduct a criminal history records check through its records and through the
6 Federal Bureau of Investigation. Upon completion of the background investigation, the division of
7 state police shall release copies of the criminal conviction records to the department. The
8 department shall maintain the confidentiality of all criminal history records information received
9 pursuant to this paragraph.

10 IV. The department may require the incorporators to pay the actual costs of each
11 background investigation and criminal history records check.

12 238:15 New Section; Credit Unions. Amend RSA 394-B by inserting after section 4 the following
13 new section:

14 394-B:4-a Credit Unions; Criminal History Records Check.

15 I. The department may complete a background investigation and criminal history records
16 check on the persons seeking to form a credit union, the proposed officers and directors of the credit
17 union, and any person in a similar position or performing similar functions.

18 II. If required by the department, the persons described in paragraph I shall submit to the
19 department a notarized criminal history records release form, as provided by the New Hampshire
20 department of safety, division of state police, which authorizes the release of the person's criminal
21 records, if any. The person shall submit with the release form a complete set of fingerprints taken by
22 a qualified law enforcement agency or an authorized employee of the banking department. In the
23 event that the first set of fingerprints is invalid due to insufficient pattern, a second set of
24 fingerprints is necessary in order to complete the criminal history records check. If, after 2 attempts,
25 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal
26 history records check, accept police clearances from every city, town, or county where the person has
27 lived during the past 5 years.

28 III. The department shall submit the criminal history records release form to the division of
29 state police which shall conduct a criminal history records check through its records and through the
30 Federal Bureau of Investigation. Upon completion of the background investigation, the division of
31 state police shall release copies of the criminal conviction records to the department. The
32 department shall maintain the confidentiality of all criminal history records information received
33 pursuant to this paragraph.

34 IV. The department may require the incorporators to pay the actual costs of each
35 background investigation and criminal history records check.

36 238:16 Credit Unions; Use of Funds. Amend RSA 394-B:16, I-II to read as follows:

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1 I. It may deposit its money in any corporate credit union whose shares and deposits are
2 insured by the National Credit Union Administration or other qualified share and deposit insurance
3 fund deemed acceptable by the bank commissioner, and may deposit its money in any cooperative
4 bank, building and loan association, savings bank, trust company, federal savings and loan
5 association, or national bank in New England that is *federally* insured [~~by either the Federal~~
6 ~~Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation~~].

7 II. It may invest up to the insured amount in any cooperative bank, building and loan
8 association, savings bank, trust company, federal savings and loan association, or national bank in
9 the United States, [~~which~~] *that* is *federally* insured [~~by either the Federal Deposit Insurance~~
10 ~~Corporation or the Federal Savings and Loan Insurance Corporation~~].

11 238:17 New Section; Merchant Banks; Criminal History Records Check. Amend RSA 392-A by
12 inserting after section 6 the following new section:

13 392-A:6-a Merchant Bank; Criminal History Records Check.

14 I. The department may complete a background investigation and criminal history records
15 check on the person or group of persons acting in concert who acquire directly or indirectly 10
16 percent or more of the beneficial ownership or control of the voting shares, new officers, and directors
17 and any person in a similar position or performing similar functions. If the acquirer is a subsidiary,
18 the department may complete a background investigation and criminal history records check on the
19 individuals who are the indirect owners, as defined in RSA 397-A:1, VIII-a.

20 II. If required by the department, the persons described in paragraph I shall submit to the
21 department a notarized criminal history records release form, as provided by the New Hampshire
22 department of safety, division of state police, which authorizes the release of the person's criminal
23 records, if any. The person shall submit with the release form a complete set of fingerprints taken by
24 a qualified law enforcement agency or an authorized employee of the banking department. In the
25 event that the first set of fingerprints is invalid due to insufficient pattern, a second set of
26 fingerprints is necessary in order to complete the criminal history records check. If, after 2 attempts,
27 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal
28 history records check, accept police clearances from every city, town, or county where the person has
29 lived during the past 5 years.

30 III. The department shall submit the criminal history records release form to the division of
31 state police which shall conduct a criminal history records check through its records and through the
32 Federal Bureau of Investigation. Upon completion of the background investigation, the division of
33 state police shall release copies of the criminal conviction records to the department. The
34 department shall maintain the confidentiality of all criminal history records information received
35 pursuant to this paragraph.

36 IV. The department may require the incorporators to pay the actual costs of each

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1 background investigation and criminal history records check.

2 238:18 Funds Transfers. Amend RSA 382-A:4A-108(c) to read as follows:

3 (c) In a funds transfer to which this Article applies, in the event of an *inconsistency*
4 *between an* applicable provision of this Article and an applicable provision of the Electronic Fund
5 Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the
6 inconsistency.

7 238:19 Contingency. If SB 161 of the 2013 regular legislative session becomes law, then section
8 18 of this act shall take effect at 12:01 a.m. on the effective date of SB 161. If SB 161 does not
9 become law, then section 18 of this act shall not take effect.

10 238:20 Effective Date.

11 I. Section 18 of this act shall take effect as provided in section 19 of this act.

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

13

14 Approved: July 15, 2013

15 Effective Date: I. Section 18 shall take effect as provided in section 19.

16 II. Remainder shall take effect September 13, 2013.