

CHAPTER 257
HB 594-FN – FINAL VERSION

20Mar2013... 0716h
05/23/13 1497s
06/06/13 2009s
06/06/13 2016s
26June2013... 2120CofC
26June2013... 2195EBA

2013 SESSION

13-0829
08/09

HOUSE BILL ***594-FN***

AN ACT relative to the general consumer credit laws of the state, making a technical correction, and relative to a town clerk and tax collector electing to be a member in the retirement system.

SPONSORS: Rep. Walz, Merr 23

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill modifies several provisions of the consumer credit law. This bill also makes a technical correction to SB 45 of the 2013 regular legislative session. This bill also clarifies the membership of the person concurrently holding the offices of both town clerk and tax collector in the retirement system contingent on HB 342-FN becoming law.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the general consumer credit laws of the state, making a technical correction, and relative to a town clerk and tax collector electing to be a member in the retirement system.

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

1 257:1 Banks and Banking; Fidelity Bond Coverage. Amend RSA 383:14, I to read as follows:

2 I. Each institution under the supervision of the commissioner ***except for institutions***
3 ***supervised under RSA 361-A, RSA 397-A, RSA 397-B, RSA 399-A, RSA 399-D, and RSA 399-G,***
4 shall purchase fidelity bond coverage for protection or indemnity against losses from dishonest or
5 criminal acts of officers, employees, and agents of the institution, and acts such as robbery, burglary,
6 or forgery by persons not associated with the institution.

7 257:2 Mortgage Bankers and Brokers; Definitions. Amend RSA 397-A:1, I-a to read as follows:

8 I-a. "Affiliate" means a relationship between 2 ***or more*** persons if either person has the
9 power to control the other, or ***where*** a third person [~~who~~] controls or has the power to control [~~both~~]
10 ***such persons***. Affiliates shall include but not ***be*** limited to:

- 11 (a) Interlocking directorates or ownership; or
12 (b) Identity of interests among members of a family.

13 257:3 Definition; Mortgage Banker. RSA 397-A:1, XII is repealed and reenacted to read as
14 follows:

15 XII. "Mortgage banker" means a person not exempt under RSA 397-A:4 who, for
16 compensation or gain, or in the expectation of compensation or gain, whether such compensation or
17 gain is direct or indirect:

- 18 (a) Makes or originates a mortgage loan as payee on the note evidencing the loan;
19 (b) Advances, or offers to advance, or makes or offers to make, a commitment to advance
20 a banker's funds for a mortgage loan, or closes a mortgage loan in its own name or with the banker's
21 funds; or
22 (c) Otherwise funds or offers to fund a mortgage loan.

23 257:4 Definition; Mortgage Broker. Amend RSA 397-A:1, XIII to read as follows:

24 XIII. "Mortgage broker" means a person not exempt under RSA 397-A:4 who for

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1 compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

2 (a) Acts *or offers to act* as an intermediary, finder, or agent of a lender or borrower for
3 the purpose of negotiating, arranging, finding, or procuring mortgage loans, or commitments for
4 mortgage loans.

5 (b) Offers to serve as agent for any person in an attempt to obtain a mortgage loan.

6 (c) Offers to serve as agent for any person who has money to lend for a mortgage loan.

7 257:5 Definition; Originator. Amend the introductory paragraph of RSA 397-A:1, XVII(a) to
8 read as follows:

9 XVII.(a) "Originator" or "mortgage loan originator" or "mortgage originator" or "loan
10 originator" means an individual who for direct or indirect compensation or gain or in the expectation
11 of direct or indirect compensation or gain, takes a mortgage application or offers, negotiates, solicits,
12 arranges, or finds a mortgage loan or who offers or negotiates terms of a residential mortgage loan.
13 ~~[No individual may act as an originator for more than one mortgage broker, mortgage servicer, or~~
14 ~~mortgage banker. A sole proprietor licensed as a mortgage broker, mortgage servicer, or mortgage~~
15 ~~banker shall also obtain a license as a mortgage originator prior to engaging in the activities of a~~
16 ~~mortgage originator.]~~ Mortgage loan originator does not include:

17 257:6 Mortgage Bankers and Brokers; Application of Chapter. Amend RSA 397-A:2, III to read
18 as follows:

19 III. Persons subject to or licensed under this chapter shall abide by applicable federal laws
20 and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation
21 of such law, regulation, order, or rule is a violation of this chapter. *Such federal laws and*
22 *regulations include but are not limited to the Bank Secrecy Act (BSA), 31 U.S.C. section*
23 *5311 et seq. and 31 C.F.R. Part X et seq. when required by the BSA, and include interpretive*
24 *orders and similar directives.*

25 257:7 License Required. Amend RSA 397-A:3, V and VI to read as follows:

26 V.(a) ~~[In this paragraph, "governmental entities" means federal, New Hampshire state, and~~
27 ~~New Hampshire municipal governments, and the agencies, instrumentalities, and corporations~~
28 ~~thereof.~~

29 ~~(b)~~(1) In this paragraph, "exempt nonprofit entities" means nonprofit agencies or
30 persons which have a tax exempt status granted under the provisions of section 501(c)(3) or 501(c)(4)
31 of the Internal Revenue Code; and

32 (A) exclusively make or issue commitments for mortgage loans on residential
33 property to be financed by a governmental entity with public funds, or negotiate, place, assist in
34 placement of, find, or offer to negotiate, place, assist in placement of, or find mortgage loans on
35 residential property to be financed with public funds exclusively under a contract with a
36 governmental entity; or

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1 (B) make or issue commitments for mortgage loans on residential property and
2 are determined by the commissioner to be organized exclusively for benevolent or charitable
3 purposes for the benefit of New Hampshire consumers.

4 (2) For purposes of this definition, the making of a mortgage loan includes being
5 named as the lender or mortgagee on the note, mortgage, or other loan documents.

6 ~~[(e) Governmental entities and]~~ (b) Exempt nonprofit entities may not be required to
7 obtain a mortgage banker or mortgage broker license when such entity:

8 (1) Is authorized to conduct mortgage banker or mortgage broker business in this
9 state by an order of the commissioner or is authorized by New Hampshire statute to do mortgage
10 lending;

11 (2) Files as an exempt entity on the Nationwide Mortgage Licensing System and
12 Registry;

13 (3) Conforms to the requirements of the Nationwide Mortgage Licensing System and
14 Registry including but not limited to the reporting requirements;

15 (4) Files and maintains a bond in accordance with RSA 397-A:5, III(c) to cover the
16 business conducted by its originators; and

17 (5) Licenses its originators in this state through the Nationwide Mortgage Licensing
18 System and Registry.

19 ~~[VI. Governmental entities, as defined in subparagraph V(a), may not be required to obtain~~
20 ~~a mortgage banker or mortgage broker license when such entity only provides the funds and the~~
21 ~~residential mortgage loan is originated and effected exclusively by a New Hampshire licensed~~
22 ~~mortgage broker and its duly licensed originators.]~~

23 257:8 New Section; Mortgage Bankers and Brokers; Prohibitions. Amend RSA 397-A by
24 inserting after section 3 the following new section:

25 397-A:3-a Prohibitions.

26 I. No individual may act as an originator for more than one mortgage broker, mortgage
27 servicer, mortgage banker, or other financial institution at the same time, unless the entities are
28 affiliates.

29 II. A sole proprietor licensed as a mortgage broker, mortgage servicer, or mortgage banker
30 shall also obtain a license as a mortgage originator prior to acting as a mortgage originator.

31 III. No individual may act as a mortgage banker or broker for more than one mortgage
32 broker, mortgage servicer, mortgage banker, or other financial institution at the same time, unless
33 the entities are affiliates.

34 257:9 New Paragraph; Exemptions. Amend RSA 397-A:4 by inserting after paragraph VII the
35 following new paragraph:

36 VIII. Federal, state, or local governmental agencies, instrumentalities, and corporations and

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1 the employees of such entities who act as loan originators pursuant to their official duties as
2 employees of the entities provided that, limited to activities that would otherwise be within the scope
3 of this chapter:

4 (a) Such government entity operates:

5 (1) To promote affordable housing, housing improvement assistance, or to provide
6 homeownership education, or similar services.

7 (2) To conduct its activities in a manner that serves public or charitable purposes.

8 (3) To receive funding and revenues and to charge fees in a manner that does not
9 incentivize the organization or its employees to act other than in the best interests of its clients.

10 (4) To compensate employees in a manner that does not incentivize employees to act
11 other than in the best interests of its clients.

12 (5) Absent a commercial context and without a pecuniary interest.

13 (b) The government employees who act as loan originators as employees of government
14 entities and pursuant to government funded and regulated housing assistance programs do so:

15 (1) For public or charitable purposes, and not for the profit of another individual or
16 entity.

17 (2) Not within a commercial context.

18 257:10 New Subparagraph; License Application; Requirements; Investigation. Amend RSA 397-
19 A:5, III by inserting after subparagraph (d) the following new subparagraph:

20 (e) Mortgage bankers shall designate an individual contact person who shall be a control
21 person of their organization to communicate with department personnel on foreclosure workouts and
22 foreclosure avoidance procedures. The contact person shall have authority to facilitate foreclosure
23 workouts, and foreclosure avoidance procedures. The contact person shall be named in the license
24 application and the mortgage banker shall update the department with a new or interim contact
25 person whenever the designated contact person changes, within 7 business days of such change.

26 257:11 License Grant. Amend RSA 397-A:6, I to read as follows:

27 I. If the commissioner determines that the applicant meets the requirements of this chapter,
28 then the commissioner shall forthwith issue a license or licenses permitting the applicant to[engage
29 in the business of originating, making, or brokering mortgage loans] **act as a mortgage**
30 **originator, mortgage banker, or mortgage broker** in accordance with the laws of this state. The
31 commissioner may, by order, restrict or impose conditions for a license. Each branch office license
32 and originator license is only in effect when the associated mortgage banker or mortgage broker is
33 licensed in this state. Each branch manager of a location required to be licensed as a branch office
34 under this chapter shall be licensed as a mortgage loan originator. Licensees shall ensure that the
35 Nationwide Mortgage License System and Registry unique identifier of any person originating a
36 residential mortgage loan shall be clearly shown on all residential mortgage loan application forms,

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1 solicitations or advertisements, including business cards or websites, and any other documents as
2 established by rule, regulation, or order of the commissioner. Licensees shall be responsible for the
3 supervision of their employees, agents, loan originators, and branch offices. Licensees shall conduct
4 background checks, including checking the list of entities issued by the Office of Foreign Assets
5 Control (OFAC) whose assets were frozen by executive order, on all of their loan originators.

6 257:12 License Grant. Amend RSA 397-A:6, IV and V to read as follows:

7 IV. If a mortgage banker or mortgage broker licensee is a person other than a natural
8 person, the license issued to it shall entitle all officers, directors, members, partners, trustees,
9 agents, originators, and employees of the licensed corporation, partnership, entity, or trust to
10 ~~[engage in the business of making or brokering mortgage]~~ **make or broker** loans; provided that all
11 individuals who engage in the origination process are licensed as originators and that one officer,
12 director, member, partner, employee, or trustee of such person shall be designated in the license
13 application as the individual to be contacted under the provisions of this chapter.

14 V. If the mortgage banker or mortgage broker licensee is a natural person, the license shall
15 entitle all employees, agents, and originators of the licensee to ~~[engage in the business of making or~~
16 ~~brokering mortgage]~~ **make or broker** loans, provided that all individuals who engage in the
17 origination process are licensed as originators.

18 257:13 Record Keeping. Amend RSA 397-A:11, I-IV to read as follows:

19 I. The licensee shall maintain such records as will enable the department to determine
20 whether the licensee's business is in compliance with the provisions of this chapter and the rules
21 adopted pursuant to it. Such records shall be maintained in a readily accessible location and made
22 available for examination at the licensee's New Hampshire principal office or its New Hampshire
23 branch office location or the office of its New Hampshire agent for a period of at least 3 years after
24 the ~~[loan is closed, if the loan is not retained in the licensee's loan portfolio, or 3 years after the loan~~
25 ~~is paid in full, if the loan is retained in the licensee's loan portfolio. Licensees may maintain~~
26 ~~photocopies, microfilm, or microfiche copies of original documents]~~ **licensee's final transaction on**
27 **a loan or application file.**

28 II. Those licensees that maintain their files and business records in another state are
29 required to return such files to their principal or branch New Hampshire office, to the banking
30 department, or to the office of their New Hampshire agent for examination no later than 21 calendar
31 days after being requested to do so by the department. When the commissioner requests a loan list
32 or other similar summary document from a licensee from which to select particular files for review,
33 the licensee shall ensure that the list is received by the commissioner within 7 calendar days, and
34 ~~[return]~~ **provide** the files selected by the commissioner to the commissioner within 14 calendar days
35 to ensure compliance with the 21-day requirement. Failure to provide files and documents within
36 the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for

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1 each day after 21 days the files and documents are not produced. Failure to provide files and
2 documents within 60 days after being requested to do so by the department shall be sufficient cause
3 for license revocation, suspension, or denial.

4 III. If the licensee retains a mortgage loan in its loan portfolio or services a loan it
5 originated, an adequate loan payment history for such loan shall be made available to the
6 department upon request.

7 IV. A licensee shall keep and use business records in such form and at such location as the
8 commissioner shall by rule determine. The records shall enable the commissioner to determine
9 whether the licensee is complying with the provisions of this chapter, any rules adopted under it,
10 and any other law, rule, or regulation applicable to the conduct of the business for which it is
11 licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or
12 reproduced by any process which accurately reproduces or forms a durable medium for reproducing
13 the original record or document, or in any other form or manner authorized by the commissioner.
14 ***For their own business purposes, a licensee may maintain photocopies, microfilm,***
15 ***microfiche, or digital copies of original documents. However,*** nothing in this section shall be
16 construed to permit any licensee to destroy original records or documents. Each licensee shall
17 preserve all such business records for as long a period as the commissioner shall prescribe by rule.

18 257:14 Advertising. Amend RSA 397-A:14-a, III to read as follows:

19 III. Any advertisement, printing, display, publication, distribution, or broadcast offering
20 loans governed by this chapter shall clearly and conspicuously contain the disclosure~~[-]~~ ***in***
21 ***substantially the following form:*** “Licensed by the New Hampshire banking department.”
22 Failure to comply with the provisions of this paragraph shall constitute sufficient cause for license
23 revocation, suspension, or denial.

24 257:15 Definition; Mortgage Servicing Company. Amend RSA 397-B:1, III to read as follows:

25 III. “Mortgage servicing company” ***or “mortgage servicer”*** means an individual,
26 partnership, corporation, association, or other entity however organized and wherever located which,
27 for itself or on behalf of the holder of a mortgage loan, holds the servicing rights or records such
28 payments on its books and records and performs such other administrative functions as may be
29 necessary to properly carry out the mortgage holders obligations under the mortgage agreement
30 including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment
31 of real estate taxes and insurance premiums and the distribution of such funds to the taxing
32 authority and insurance company.

33 257:16 Mortgage Loan Servicers; Application of Chapter. Amend RSA 397-B:2, II to read as
34 follows:

35 II. Persons subject to or registered ***or licensed*** under this chapter shall abide by applicable
36 federal laws and regulations, the laws and rules of this state, and the orders of the commissioner.

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1 Any violation of such law, regulation, or rule is a violation of this chapter. *Such federal laws and*
2 *regulations include but are not limited to the Bank Secrecy Act (BSA), 31 U.S.C. section*
3 *5311 et seq. and 31 C.F.R. 103 et seq. when required by the BSA, and include interpretive*
4 *orders and similar directives.*

5 257:17 New Subparagraphs; Mortgage Loan Servicers; Registration Fees; Term; Renewal.
6 Amend RSA 397-B:4, V by inserting after subparagraph (e) the following new subparagraphs:

7 (f) Mortgage servicers and mortgage loan originators acting on behalf of mortgage
8 servicers shall abide by the provisions of RSA 397-A and the rules adopted by the department where
9 such provisions and rules apply to mortgage origination and lending activities.

10 (g) Mortgage servicing companies shall designate an individual contact person, who
11 shall be a control person of the entity, to communicate with department personnel on foreclosure
12 avoidance procedures. The contact person may facilitate foreclosure workouts, and foreclosure
13 avoidance procedures. The license application shall name the contact person and the mortgage
14 banker shall update the department whenever the designated contact person changes within 7
15 business days of such change.

16 257:18 New Section; Record Keeping. Amend RSA 397-B by inserting after section 9-a the
17 following new section:

18 397-B:9-b Record Keeping.

19 I. The registrant shall maintain records to enable the department to determine whether the
20 registrant's business is in compliance with the provisions of this chapter and the rules adopted by
21 the department. Such records shall be maintained in a readily accessible location and made
22 available for examination at the registrant's New Hampshire principal office or its New Hampshire
23 branch office location or the office of its New Hampshire agent for a period of at least 3 years after
24 the registrant's last transaction on a loan file.

25 II. Registrants that maintain their files and business records in another state shall return
26 such files to their principal or branch New Hampshire office, to the banking department, or to the
27 office of their New Hampshire agent for examination no later than 21 calendar days after being
28 requested to do so by the department. When the commissioner requests a loan list or other similar
29 summary document from a registrant from which to select particular files for review, the registrant
30 shall ensure that the list or information is received by the commissioner within 7 calendar days, and
31 then shall provide the files and information selected by the commissioner to the commissioner within
32 14 calendar days to ensure compliance with the 21 day requirement. Failure to provide files and
33 documents within the time established by this paragraph shall subject a registrant or person to a
34 fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to
35 provide files and documents within 60 days after being requested to do so by the department shall be
36 sufficient cause for registration revocation, suspension, or denial.

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1 III. A registrant shall keep and use business records in such form and at such location as the
2 commissioner shall by rule determine. The records shall enable the commissioner to determine
3 whether the registrant is complying with the provisions of this chapter, any rules adopted under it,
4 and any other law, rule, or regulation applicable to the conduct of the business for which it is
5 registered under this chapter. The rules may contain provisions for records to be recorded, copied, or
6 reproduced by any process which accurately reproduces or forms a durable medium for reproducing
7 the original record or document, or in any other form or manner authorized by the commissioner.
8 For their own business purposes, a registrant may maintain photocopies, microfilm, microfiche, or
9 digital copies of original documents. However, nothing in this section shall be construed to permit
10 any registrant to destroy original records or documents. Each registrant shall preserve all such
11 business records for as long a period as the commissioner shall prescribe by rule.

12 IV. If the commissioner or examiner finds any records to be inadequate, or kept or posted in
13 a manner not in accordance with generally accepted accounting principles, the commissioner may
14 employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being
15 examined if such person has failed to maintain, complete, or correct such records after the
16 commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

17 257:19 Mortgage Loan Servicers; Exemption. Amend RSA 397-B:10 to read as follows:

18 397-B:10 Exemption.

19 ***I.*** The provisions of this chapter shall not apply to any bank, trust company, savings and
20 loan association, or cooperative bank, savings bank, or credit union which may be chartered by this
21 state or any other state or by any agency of the United States, or to any other person not within the
22 intent of this chapter as the commissioner may designate by rule or order[~~nor shall the~~]. ***No***
23 ***registration provisions of this chapter shall apply to any individual or entity licensed by the banking***
24 ***department as a mortgage banker in accordance with RSA 397-A, provided that such mortgage***
25 ***banker abides by the provisions of this chapter and rules adopted by the department.***

26 ***II.*** ***A person that funds a mortgage loan while such person is exempt from licensure***
27 ***under RSA 397-A:4, and that retains such mortgage loan in its, his, or her own portfolio,***
28 ***may perform mortgage servicing activities limited to the collection of interest and***
29 ***principal, foreclosure procedures, loan negotiation and modification activity, without***
30 ***obtaining a mortgage servicing registration or mortgage loan originator licensed under***
31 ***this chapter.***

32 257:20 New Subparagraph; Small Loans; Applications and Fees. Amend RSA 399-A:3, I by
33 inserting after subparagraph (e) the following new subparagraph:

34 (f) The department may rely on criminal records checks reported through a national
35 licensing system in lieu of subparagraphs (c) and (d).

36 257:21 Small Loans; Consumer Credit Administration License Fund. RSA 399-A:5 is repealed

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1 and reenacted to read as follows:

2 399-A:5 Consumer Credit Administration License Fund. The balance in the consumer credit
3 administration license fund shall be transferred and shall be payable to the state treasurer as
4 restricted revenue and credited to the appropriation for the commissioner, consumer credit
5 administration division. Sums collected under this chapter shall be payable to the state treasurer as
6 restricted revenue and credited to the appropriation for the commissioner, consumer credit
7 administration division.

8 257:22 Definitions; Concessions. Amend RSA 399-D:2, II-a to read as follows:

9 II-a. ***“Concessions” means assent to repayment of a debt on terms more favorable to***
10 ***an individual than the terms of the contract between the individual and a creditor.***

11 ***II-b.*** “Control” means the power, directly or indirectly, to direct the management or policies
12 of a company, whether through ownership of securities, by contract, or otherwise. Any person is
13 presumed to control a company if such person:

14 (a) Is a director, general partner, or executive officer;

15 (b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting
16 security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a
17 class of voting securities or membership interest;

18 (c) In the case of a limited liability company, is a managing member; or

19 (d) In the case of a partnership, has the right to receive upon dissolution, or has
20 contributed, 10 percent or more of the capital.

21 257:23 New Subparagraph; Definition; Debt Adjuster. Amend RSA 399-D:2, IV by inserting
22 after subparagraph (e) the following new subparagraph:

23 (f) Any person that serves as an intermediary between a consumer and one or more
24 creditors of the consumer for the purpose of obtaining concessions.

25 257:24 Debt Adjuster; Licensee’s Duties. Amend RSA 399-D:15, VIII to read as follows:

26 VIII. Persons subject to or licensed under this chapter shall abide by applicable federal laws,
27 and regulations [~~including the federal Truth in Lending Act~~], and the laws, orders, and rules of this
28 state. Any violation of such law, rule, or order shall be a violation of this chapter.

29 257:25 Licensing of Money Transmitters; License Required. RSA 399-G:3 is repealed and
30 reenacted to read as follows:

31 399-G:3 License Required. Any person not exempt under RSA 399-G:4 that, in its own name or
32 on behalf of other persons, transmits money from this state or to persons within this state, shall
33 obtain a license from the banking department.

34 257:26 Licensing of Money Transmitters; Examinations. Amend RSA 399-G:13, II-a to read as
35 follows:

36 II-a. Licensees shall implement a system of education, training, monitoring, and periodic

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1 inspection designed to inform their authorized delegates of their responsibilities, consistent with the
2 Bank Secrecy Act and the requirements to file reports required by federal law. ***Licensees whose***
3 ***authorized delegates are not required to register independently with FinCEN shall ensure***
4 ***that such authorized delegates have adequate written policies and procedures in place to***
5 ***implement effective Bank Secrecy Act and anti-money laundering programs.***

6 257:27 Mortgage Bankers and Brokers; Borrowers' Rights. Amend RSA 397-A:15, VIII to read
7 as follows:

8 VIII. ~~[A yield spread premium is prohibited]~~ In a reverse mortgage transaction, any credit
9 derived from offering an interest rate higher than the par rate shall only be paid to the borrower or
10 used to pay the borrower's costs, and shall not be used as an additional source of compensation.

11 257:28 Mortgage Bankers and Brokers; Borrowers' Rights. Amend RSA 397-A:15, IX(a) to read
12 as follows.

13 (a) Every field on the United States Department of Housing and Urban Development's
14 Good Faith Estimate (GFE) form shall be completed before it is given to a borrower. The Tradeoff
15 Table on the instruction page of the GFE shall be completed ~~[where a yield spread premium is to be~~
16 ~~paid in connection with a mortgage transaction]~~ ***when the originating company is not funding***
17 ***the loan.***

18 257:29 Repeal. RSA 397-A:1, XXVI, relative to yield spread premium, is repealed.

19 257:30 Managed Care Law; Prescriptions. Amend RSA 420-J:7-b, II to read as follows:

20 II. Every health benefit plan that provides prescription drug benefits shall maintain an
21 expeditious exception process, not to exceed 48 hours, by which covered persons may obtain coverage
22 for a medically necessary nonformulary prescription drug. ~~[The exception process shall begin when~~
23 ~~the prescribing provider has provided the health benefit plan with the clinical rationale for the~~
24 ~~exception.]~~ The exception process shall begin when the prescribing provider has submitted a request
25 with a clinical rationale for the exception to the health benefit plan. A prescription that requires an
26 exception for coverage shall be considered approved if the exception process exceeds 48 hours.

27 257:31 Contingency. If SB 45 of the 2013 regular legislative session takes effect, section 30 of
28 this act shall take effect at 12:01 a.m. on the effective date of SB 45. If SB 45 does not take effect,
29 section 30 of this act shall not take effect.

30 257:32 Retirement System; Contingent Amendment; Membership. Amend RSA 100-A:3, I(a)(5)
31 to read as follows:

32 (5) Notwithstanding subparagraph (4), an official who concurrently holds the offices
33 of town clerk and tax collector for the same employer, and who is eligible for the same fringe benefits
34 as other full-time employees of the employer, may satisfy the conditions under subparagraphs (2)-(3)
35 by using both offices to qualify. ***Such official shall be allowed to continue membership in the***
36 ***retirement system if already enrolled, if the hours and salary of the combined offices meet***

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1 *the requirements for membership.*

2 257:33 Contingency. If HB 342-FN of the 2013 regular legislative session becomes law, section
3 32 of this act shall take effect at 12:01 a.m. on the effective date of section 4 of HB 342-FN. If HB
4 342-FN does not become law, section 32 of this act shall not take effect.

5 257:34 Effective Date.

6 I. Section 30 of this act shall take effect as provided in section 31 of this act.

7 II. Section 32 of this act shall take effect as provided in section 33 of this act.

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

9

10 Approved: July 24, 2013

11 Effective Date: I. Section 30 shall take effect as provided in section 31.

12 II. Section 32 shall take effect as provided in section 33.

13 III. Remainder shall take effect September 22, 2013