

CHAPTER 153  
HB 565 – FINAL VERSION

8Jan2014... 2299h  
05/08/14 1614s  
05/08/14 1753s

2014 SESSION

13-0001  
06/05

HOUSE BILL           **565**

AN ACT               relative to the authority of the bank commissioner to investigate certain unfair or deceptive acts or practices.

SPONSORS:           Rep. Schlachman, Rock 18; Rep. Copeland, Rock 19; Rep. Heffron, Rock 18

COMMITTEE:          Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill authorizes the bank commissioner to investigate and prosecute certain deceptive practices.

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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                   relative to the authority of the bank commissioner to investigate certain unfair or deceptive acts or practices.

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

1           153:1 Bank Commissioner; Consumer Complaints and Restitution. Amend RSA 383:10-d to  
2 read as follows:

3           383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive  
4 authority and jurisdiction to investigate conduct that ~~[is or may be an unfair or deceptive act or~~  
5 ~~practice under RSA 358-A and exempt under RSA 358-A:3, I or that]~~ may violate any of the  
6 provisions of ***RSA 361-A and*** Titles XXXV and XXXVI and administrative rules adopted thereunder.  
7 The commissioner may hold hearings relative to such conduct and may order restitution for a person  
8 or persons adversely affected by such conduct. The commissioner may request the assistance and  
9 services of the ~~[consumer protection and antitrust bureau of the]~~ department of justice ***and shall***  
10 ***delegate to the department of justice the authority to investigate criminal conduct under***  
11 ***this section.*** ~~[In the instance of conduct involving an alleged criminal offense,]~~ The commissioner  
12 shall ~~[refer to]~~ ***provide*** the department of justice ~~[all aspects]~~ ***information*** relevant to the criminal  
13 investigation ~~[and prosecution of such matter]~~ ***of such matters, if applicable, and shall***  
14 ***cooperate with such investigation and prosecution.***

15           153:2 New Section; Bank Commissioner; Unfair or Deceptive Act or Practice. Amend RSA 383  
16 by inserting after section 10-g the following new section:

17           383:10-h Unfair or Deceptive Act or Practice.

18           I. No person engaging in trade or commerce, including without limitation, any business,  
19 activity, or transaction, that is subject to the jurisdiction of the bank commissioner may act in a  
20 manner that is or may be an unfair method of competition or an unfair or deceptive act or practice  
21 under RSA 358-A:2.

22           II. The commissioner shall have exclusive authority and jurisdiction to investigate conduct  
23 that is or may be an unfair method of competition or an unfair or deceptive act or practice under  
24 paragraph I, and may bring an administrative action to enforce such provisions as follows:

25           (a) Any person who violates paragraph I, may, upon notice and opportunity for hearing,  
26 and in addition to any such other penalty provided for by law, be subject to suspension, revocation, or  
27 denial of any registration, license, or charter, including forfeiture of any application fee, and may be

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1 ordered to provide restitution for a person or persons adversely affected by such conduct.

2 (b) Each method, act, or practice specified shall constitute a separate violation without  
3 regard to the number of persons affected thereby.

4 (c) The commissioner may authorize, with or without prior administrative action, the  
5 department of justice to file a civil enforcement action that alleges any unfair method of competition  
6 or any unfair or deceptive act or practice under this section. The court may apply any of the  
7 remedies allowed under RSA 358-A:4, III.

8 (d) Any person who knowingly violates paragraph I, shall be guilty of a misdemeanor for  
9 each violation if a natural person, or guilty of a felony if any other person. The commissioner shall  
10 delegate to the department of justice the authority to investigate criminal conduct under this section,  
11 shall provide the department of justice information relevant to the criminal investigation and  
12 prosecution of such matters, and shall cooperate with such investigation and prosecution.

13 153:3 Effective Date. This act shall take effect January 1, 2015.

14 Approved: June 30, 2014

15 Effective Date: January 1, 2015