

Amendment to HB 474

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Bank and Credit Union Regulation and Enforcement; Definitions. Amend RSA 383-A:2-
4 201(b) to read as follows:

5 (b) Whenever a federal law or rule is referenced by incorporation in the Bank and
6 Credit Union ~~[Regulatory Enforcement]~~ Act, the Depository Bank Act, the Trust Company Act, the
7 Family Trust Company Act, or the Credit Union Act, the reference is to the law or rule as may be
8 amended from time to time.

9 2 Bank and Credit Union Regulation and Enforcement; Organization of State Banks;
10 Application. Amend RSA 383-A:3-305(a) to read as follows:

11 (a) The organizer of a state bank shall apply for a charter by filing an application under
12 RSA 383-A:6-602. The commissioner shall prescribe the form of the application. The form shall
13 specify information required to process the application for the type of state bank to be organized.
14 The information shall include: the name of the state bank; the address of ~~[the state]~~ **a depository**
15 bank's principal office; the state bank's registered agent and registered office; the name and address
16 of each organizer; the name, address, background, and experience of the proposed directors and the
17 executive officers; **for trust companies and family trust companies, the proposed work**
18 **location for each executive officer where the executive officer will conduct trust business;**
19 the name, address, and equity interest of each person holding 10 percent or more of the state bank's
20 voting interests or other beneficial interests; the proposed organizational documents, including the
21 organizational instrument executed by the organizer; a capital plan for the first 5 years of
22 operations, including a statement as to the amount of the proposed initial capital, an explanation as
23 to why that amount of capital is adequate for its business operations, and the sources and uses of
24 capital; a business plan describing the business of the state bank, the customers or markets that it
25 intends to serve, and its business strategy for the first 5 years of operation; pro forma financial
26 statements for the first 5 years of operations; and any other facts or circumstances deemed relevant
27 to the application by the commissioner.

28 3 Bank and Credit Union Regulation and Enforcement; Investigative Powers. Amend RSA 383-
29 A:3-306 to read as follows:

30 383-A:3-306 Investigative Powers. For the purpose of any investigation under RSA 383-A, RSA
31 383-B, RSA 383-C, **and** RSA 383-D, ~~[and RSA 383-E,~~ the commissioner shall have the power to
32 subpoena witnesses and administer oaths in any adjudicative proceedings and the power to compel,

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by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to his or her investigation.

4 Bank and Credit Unions; Organization of State Banks; Material Change in Operating Conditions. Amend RSA 383-A:3-318 to read as follows:

383-A:3-318 Material Change in Operating Conditions. If a board of directors of a [state] **depository** bank proposes to make a material change in the business plan, capital plan, or other factors considered by the commissioner in granting a charter to the [state] **depository** bank within 5 years of its receipt of a certificate to engage in business under RSA 383-A:3-315, then the board of directors may not make the change unless it submits an application seeking approval of the change to the commissioner as provided in RSA 383-A:6-602 and it is permitted to do so by the commissioner.

5 Banks and Banking; Capital, Fidelity Bond, and Errors and Omissions Insurance; Fidelity Bond and Errors and Omissions Liability Insurance. Amend RSA 383-A:4-405 and 4-406 to read as follows:

383-A:4-405 Fidelity Bond.

(a) A state bank or credit union shall maintain a fidelity bond that provides protection against losses from (i) any dishonest or criminal act of any person, including any of its directors, officers, employees, and agents, and (ii) any act such as robbery, burglary, or forgery by a person not associated with the bank *or credit union*.

(b) Except as provided in (c), the fidelity bond shall be issued by:

(1) An insurer licensed under the laws of the state; or

(2) A foreign surplus lines insurer authorized to sell insurance in this state and licensed by any state, district or territory of the United States.

(c) The issuer of a fidelity bond may be a person other than as described in (b)(1) and (2) if, under the terms of the policy, the issuer unconditionally consents to:

(1) The resolution of any claim or dispute involving the policy by a court located in this state; and

(2) The personal jurisdiction of the courts located in this state in connection with any matter involving the policy.

(d) The board of directors shall review the fidelity bond annually, or more often as circumstances require, to evaluate the adequacy of the amount of coverage.

(e) A **state** bank or credit union shall give notice to the commissioner ***in accordance with RSA 383-A:6-602*** if the coverage ***under the fidelity bond*** is decreased by 25 percent or more ~~[under RSA 383-A:6-602]~~ ***in any 12-month period.***

~~(f)~~ ***(f)*** From time to time, the commissioner may reduce or increase the amount of the fidelity bond that a state bank or credit union is required to maintain. At no time shall the amount fall below the minimum required by the commissioner.

1 ~~[(e)]~~ **(g)** The policy shall require that the fidelity ~~[insurer notify the commissioner~~
2 ~~within 10 days after the cancellation or nonrenewal of the fidelity bond]~~ **bond insurer provide 10**
3 **days' notice to the commissioner before cancellation or nonrenewal of the fidelity bond**
4 **shall take effect.**

5 383-A:4-406 Errors and Omissions Liability Insurance.

6 (a) A state bank or credit union shall maintain a liability policy that insures against
7 losses that any of its customers incurs by reason of the errors and omissions of the state bank or
8 credit union or any of its directors, officers, employees, and agents.

9 **(b) Except as provided in subsection (c), the errors and omissions liability**
10 **policy shall be issued by:**

11 **(1) An insurer licensed under the laws of this state; or**

12 **(2) A foreign surplus lines insurer authorized to sell insurance in this state**
13 **and licensed by any state, district or territory of the United States.**

14 **(c) The issuer of the errors and omissions liability policy may be a person other**
15 **than as described in (b) if, under the terms of the policy, the issuer unconditionally**
16 **consents to:**

17 **(1) The resolution of any claim or dispute involving the policy by a court**
18 **located in this state; and**

19 **(2) The personal jurisdiction of the courts located in this state in**
20 **connection with any matter involving the policy.**

21 **(d)** The board of directors shall review the **errors and omissions** liability policy
22 annually, or as circumstances require, to evaluate the adequacy of **the amount of** coverage.

23 **(e)** A **state** bank or credit union shall give notice to the commissioner **in accordance**
24 **with RSA 383-A:6-602** if coverage **under the errors and omissions liability policy** is decreased
25 by 25 percent or more ~~[under RSA 383-A:6-602]~~ **in any 12-month period.**

26 ~~[(b)]~~ **(f)** From time to time, the commissioner may reduce or increase the amount of
27 **errors and omissions liability** insurance coverage that a state bank or credit union is required to
28 maintain. At no time shall the amount of insurance fall below the minimum required by the
29 commissioner.

30 ~~[(e)]~~ **(g)** The policy shall require that the errors and omissions **liability** insurer ~~[notify~~
31 ~~the commissioner within 10 days after the notice of cancellation or nonrenewal of the insurance~~
32 ~~policy]~~ **provide 10 days' notice to the commissioner before cancellation or nonrenewal of**
33 **the errors and omissions liability shall take effect.**

34 6 Banks and Banking; Management and Operations; Reports of Condition. Amend RSA 383-
35 A:5-510 to read as follows:

36 383-A:5-510 Reports of Condition.

37 (a) Each **calendar year, each** state bank or credit union shall balance its books at the

close of business on the last business day in December ~~[in each year]~~ and, within 30 calendar days thereafter, shall ~~[make reports to the commissioner, upon forms furnished by the commissioner, showing the true conditions of the state bank or credit union at that time. The commissioner shall prescribe what information the reports shall contain including those forms required by federal regulating agencies and shall seasonably furnish forms upon which they shall be made.]~~ ***file with the commissioner an annual report. The annual report shall be signed by an authorized officer of the state bank or credit union, attesting that the information provided is accurate to the best of his or her knowledge, and shall contain the following information:***

(1) ***The name and contact information for the institution and each branch, principal office, trust office, and main office, including information concerning any branch, principal office, trust office, or main office which opened, closed, or relocated during the year.***

(2) ***The name of each person who is a director or trustee.***

(3) ***The name of each person who is an executive officer.***

(4) ***The name of each subsidiary of the institution.***

(5) ***The name and contact information for each service entity.***

(6) ***The name and contact information for any affiliated holding company.***

(7) ***With respect to any fidelity bond or errors and omissions liability policy maintained to satisfy requirements in banking acts, the legal name and contact information for the insurance company that issued the coverage, the amount of coverage, and the amount of the deductible.***

(8) ***With respect to any liquidation pledge the trust company maintains, the name and contact information for the person holding the liquidation pledge and the fair market value of the liquidation pledge as of the last business day of the year.***

(9) ***With respect to any surety bond that a trust company maintains for the benefit of the commissioner, the name and contact information for the person issuing the surety bond, and the amount of the surety.***

(10) ***With respect to any other funds that a trust company maintains for the benefit of the commissioner, the name and contact information for the person holding the funds, and the fair market value of the funds as of the last business day of the year.***

(b) ***Quarterly***, each state bank or credit union shall balance its books at the close of business on the last business day in March, June, ~~[and]~~ September, ***and December***, ~~[each year]~~ and, within 30 calendar days after the end of each of those calendar quarters, shall ~~[make reports to the commissioner, upon forms furnished by the commissioner, showing the true conditions of the state bank or credit union at that time. The commissioner shall prescribe what information the reports shall contain including those forms required by federal regulating agencies and shall seasonably furnish forms upon which they shall be made.]~~ ***file with the commissioner a***

1 *quarterly report, as follows:*

2 *(1) In the case of a depository bank, the quarterly report form shall be*
3 *submitted using the applicable "Consolidated Reports of Condition and Income" developed*
4 *by the Federal Financial Institutions Examination Council.*

5 *(2) In the case of a credit union, the quarterly report form shall be*
6 *submitted using the "Call Report Form 5300" developed by the National Credit Union*
7 *Administration.*

8 *(3) In the case of a trust company or family trust company, the quarterly*
9 *report form shall be submitted using the following sections of the "Consolidated Reports of*
10 *Condition and Income" developed by the Federal Financial Institutions Examination*
11 *Council:*

- 12 *a. Signature page with attestation;*
13 *b. Contact Information for the Reports of Condition and Income;*
14 *c. USA PATRIOT Act Section 314(a) Anti-Money Laundering Contact*
15 *Information;*
16 *d. Schedule RI-Income Statement;*
17 *e. Schedule RI-A—Changes in Bank Equity Capital;*
18 *f. Schedule RI-E—Explanations;*
19 *g. Schedule RC—Balance Sheet;*
20 *h. Schedule RC-B—Securities;*
21 *i. Schedule RC-F—Other Assets;*
22 *j. Schedule RC-G—Other Liabilities; and*
23 *k. Schedule RC-T—Fiduciary and Related Services.*

24 *(c) The commissioner shall have the power to adopt rules relating to reporting*
25 *under this article, including any additional reporting requirements, and may by rule*
26 *waive reporting requirements when the commissioner determines such information is not*
27 *relevant to the determination of the true conditions of the state bank or credit union.*

28 7 Banks and Credit Union Regulation and Enforcement; Order to Show Cause; Cease and
29 Desist Order. Amend RSA 383-A:9-903(c) to read as follows:

30 (c) Valid delivery of any order under this article shall be by hand or certified mail to the
31 person at the last known principal office **or main office** address **if a depository bank or credit**
32 **union**, [or] by hand or certified mail to the legal representative of the person, **or for a trust**
33 **company or family trust company to an executive officer.**

34 8 Banks and Banking; Depository Bank Act; General Provisions; Commissioner. Amend RSA
35 383-B:1-104 to read as follows:

36 383-B:1-104 Commissioner. The commissioner shall have the powers necessary or incidental to
37 performing all of the commissioner's duties under this chapter, including the power to adopt rules

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as provided in this chapter in accordance with RSA 541-A. All rules previously adopted by the commissioner relating to the subject matter of this chapter shall be subject to RSA 541-A:17~~[-except for rules adopted under RSA 394-A:7 which shall continue in full force and effect until amended or repealed]~~.

9 Depository Bank Act; Mutual Banks and Mutual Holding Companies; Reorganization of a Mutual Bank as a Mutual Holding Company. Amend the introductory paragraph of RSA 383-B:6-609 to read as follows:

A mutual bank may reorganize as a mutual holding company owning a subsidiary bank ***under a plan of reorganization***, by taking or causing to be taken the following actions:

10 Depository Bank Act; Mutual Banks and Mutual Holding Companies; Continuation of Operations and Depositor Interest. Amend RSA 383-B:6-615 to read as follows:

383-B:6-615 Continuation of ***Operations and*** Depositor Interest.

(a) The commissioner may permit any newly created, wholly-owned subsidiary bank of a mutual holding company under RSA 383-B:6-609 to represent that it is a continuation of the operations of the mutual bank which was its organizer, provided such representation does not violate RSA 383-A:7-701 and is consistent with the operations of the new subsidiary bank under the plan of reorganization.

(b) The depositors of the mutual bank immediately prior to the reorganization shall be entitled to deposits in the subsidiary bank of the mutual holding company of like amounts, interest rates, and other terms, without interruption of interest, and the deposits shall continue to be insured by the Federal Deposit Insurance Corporation up to the maximum amount provided by law. The depositors of the mutual bank immediately before the reorganization, shall, by virtue of the reorganization, have proprietary interests in the net worth of the mutual holding company of the same nature, rights, and proportions as the proprietary interests which they had in the mutual bank, in lieu of the former interests.

11 Trust Company Act; Definitions. Amend RSA 383-C:2-201(b)(7) to read as follows:

(7) "Trust office" means a place of business of a trust company~~[-other than its principal office,]~~ at which trust business is conducted, but shall not include an office that provides only administrative services or support for its trust business. The commissioner may define by rule which administrative services or support for a trust business would qualify for exemption from this definition and the procedure for requesting such exemption.

12 Trust Company Act; Required Capital, Fidelity Bond, Liability Insurance Generally. Amend RSA 383-C:5-501 to read as follows:

383-C:5-501 Required Capital, Fidelity Bond, Liability Insurance Generally. A trust company shall maintain the level of capital required under RSA 383-C:5-502, a fidelity bond under RSA 383-A:4-405, an errors and omissions liability insurance policy under RSA 383-A:4-406, and a liquidation pledge under RSA 383-C:5-503. The commissioner shall consider a trust company's

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1 safety and soundness and the protection of the trust company's clients in determining the
2 appropriate amounts of required capital, fidelity bond coverage, **errors and omissions** liability
3 insurance coverage, and liquidation pledge for the trust company. ***In addition to the***
4 ***requirements in RSA 383-A:4-405 and RSA 383-A:4-406, any insurance deductible shall be***
5 ***reasonable and shall not jeopardize the safe and sound operation of the trust company.***

6 13 Trust Company Act; Dissolution; Application for Dissolution. Amend RSA 383-C:10-1004(a)
7 to read as follows:

8 (a) Before a trust company may dissolve its charter under RSA [~~383-A:10-1002~~] **383-**
9 **C:10-1002** or RSA [~~383-A:10-1003~~] **383-C:10-1003**, the trust company shall file with the
10 commissioner an application for dissolution.

11 14 Trust Company Act; Reports and Other Filings. Amend RSA 383-C:13-1301 to read as
12 follows:

13 383-C:13-1301 Reports and Other Filings.

14 (a) A trust company shall file with the commissioner reports of condition as required
15 under RSA 383-A:5-510 and copies of other documents as required under RSA 383-A:5-511.

16 (b) ***A trust company shall, at the same time it files the annual report of***
17 ***condition pursuant to RSA 383-A:5-510, report to the commissioner the work address and***
18 ***other contact information where each executive officer of the trust company conducts***
19 ***trust business and the residential address of all directors, which information shall be kept***
20 ***confidential by the commissioner pursuant to RSA 383:10-b.***

21 (c) ***A trust company shall have a continuing obligation to update the***
22 ***information reported pursuant to subsection (b) within 30 days of any change.***

23 (d) ***A trust company failing to report the information required pursuant to***
24 ***subsections (b) and (c) within the prescribed time period shall pay to the commissioner a***
25 ***penalty of \$50 for each day such a report is overdue.***

26 15 Family Trust Company Act; Capital and Insurance; General. Amend RSA 383-D:6-601 to
27 read as follows:

28 383-D:6-601 General. A family trust company shall maintain the required capital under RSA
29 383-D:6-602, ***a fidelity bond under RSA 383-A:4-405***, and an errors and omissions liability
30 insurance policy under RSA 383-A:4-406. For purposes of determining the appropriate amounts of
31 required capital, ***fidelity bond coverage***, and ***errors and omissions*** liability insurance ***coverage***,
32 the commissioner shall consider the family trust company's safety and soundness and shall give
33 primary consideration to the liability insurance ***coverage***, which [~~provide~~] ***provides*** the primary
34 protections for a family trust company's family clients. ***In addition to the requirements in RSA***
35 ***383-A:4-405 and RSA 383-A:4-406, any insurance deductible shall be reasonable and shall***
36 ***not jeopardize the safe and sound operation of the family trust company.*** RSA 383-C:5-501
37 shall not apply to family trust companies.

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1 16 New Subparagraphs; Family Trust Company Act; Reports and Certification. Amend RSA
2 383-D:10-1001 by inserting after subparagraph (d) the following new subparagraphs:

3 (e) A family trust company shall, at the same time it files the annual report of condition
4 pursuant to RSA 383-A:5-510, report to the commissioner the work address and other contact
5 information where each executive officer of the family trust company conducts trust business and
6 the residential address of all directors, which information shall be kept confidential by
7 commissioner pursuant to RSA 383:10-b.

8 (f) A family trust company shall have a continuing obligation to update the information
9 reported pursuant to subsection (e) within 30 days of any change.

10 (g) A family trust company failing to report the information required pursuant to
11 subsections (e) and (f) within the prescribed time period shall pay to the commissioner a penalty of
12 \$50 for each day such a report is overdue.

13 17 Family Trust Company Act; Judicial Dissolution. Amend RSA 383-D:12-1203(d) to read as
14 follows:

15 (d) Venue for a judicial proceeding under this section is in the county of this state in
16 which the family trust company's ~~[principal]~~ **trust** office is located or, if it does not have a
17 ~~[principal]~~ **trust** office in this state, its registered office.

18 18 Credit Union Act; Definitions. Amend RSA 383-E:2-201(b)(1) to read as follows:

19 (1) "Branch office" means a place or location, other than its ~~[principal]~~ **main** office,
20 at which a credit union receives the money of its members on deposit and in payment of shares or
21 makes loans or receives payments on loans, but shall not include an office that provides only
22 administrative services or support for its activities. The commissioner may define by rule which
23 administrative services or support for a credit union's activities would qualify for exemption from
24 this definition and the procedure for requesting such exemption.

25 19 Effective Date.

26 I. Sections 1, 3, 4, 6-10, 13, and 18 of this act shall take effect upon its passage.

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