

## CHAPTER 21

### ADMINISTRATION

#### §211. Superintendent

**1. Appointment; term; qualifications.** The activities of the bureau are directed by a superintendent who is appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over financial institutions and to confirmation by the Legislature. The superintendent shall hold office for a term of 5 years, or until the superintendent's successor is appointed and qualified. The superintendent may be removed from office for cause by impeachment or by the Governor on the address of both branches of the Legislature, and Title 5, section 931, subsection 2 does not apply. A person appointed as superintendent must have the knowledge of, or experience in, the theory and practice of financial institutions.

[PL 2001, c. 44, §7 (AMD); PL 2001, c. 44, §14 (AFF).]

**2. Salary.** The superintendent is entitled to receive a salary commensurate with the superintendent's responsibilities in accordance with Title 5 and is entitled to receive all actual travel expenses incurred in the performance of official duties.

[PL 1989, c. 702, Pt. E, §6 (AMD).]

**3. Powers and duties.** With the approval of the commissioner, the superintendent shall organize the bureau in such a manner as the superintendent considers necessary to carry out the superintendent's responsibilities under this Title and, in cases in which a financial institution is the creditor, the superintendent's responsibilities under the Maine Consumer Credit Code pursuant to Title 9-A, section 1-301, subsection 2. The organization must take into account the need for examination and surveillance of individual institutions to ensure that each is financially sound and complies with state and applicable federal law and regulations; the need to protect consumers against unfair practices by financial institutions that provide consumer credit; the need for consumer education; the need to encourage the development of economically sound credit practices; and the need for promotion of reasonable and orderly competition among financial institutions and for promoting the provision of financial services consistent with the public interest.

[PL 1995, c. 502, Pt. H, §3 (AMD).]

**4. Vacancy.** If the office of superintendent is vacant for any reason except the superintendent's illness or temporary absence from the State, appointment of a successor shall be made, as provided for in subsection 1, within 6 months of the creation of such vacancy.

[PL 1975, c. 500, §1 (NEW).]

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 771, §110 (AMD). PL 1979, c. 663, §29 (AMD). PL 1981, c. 359, §4 (AMD). PL 1983, c. 553, §10 (AMD). PL 1987, c. 105, §2 (AMD). PL 1987, c. 402, §A85 (AMD). PL 1987, c. 769, §A40 (AMD). PL 1989, c. 702, §E6 (AMD). PL 1995, c. 309, §16 (AMD). PL 1995, c. 309, §29 (AFF). PL 1995, c. 502, §H3 (AMD). PL 2001, c. 44, §7 (AMD). PL 2001, c. 44, §14 (AFF).

#### §212. Deputy superintendents and other personnel

##### 1. Deputy superintendents.

A. The superintendent may employ deputy superintendents, subject to the commissioner's approval and in accordance with the Civil Service Law. [PL 2007, c. 79, §1 (AMD).]

B. The superintendent shall designate a deputy superintendent to perform the duties of the superintendent whenever the superintendent is absent from the State; a deputy superintendent is directed to do so by the superintendent; there is a vacancy in the office of superintendent; or the superintendent is incapacitated by illness. In the event of a vacancy in the office of the superintendent, the superintendent's incapacitating illness or absence from the State at a time when there is no deputy superintendent, the commissioner may designate a special deputy superintendent to perform the duties of the superintendent for a period not to exceed 6 months. [PL 2007, c. 79, §2 (AMD).]

[PL 2007, c. 79, §§1, 2 (AMD).]

## **2. Examiners and employees.**

A. The superintendent may employ personnel as the business of the bureau may require, subject to the commissioner's approval and in accordance with the Civil Service Law. The qualifications of those personnel must reflect the needs and responsibilities relating to the bureau's regulatory functions pursuant to this Title. The superintendent may authorize senior personnel of the bureau to carry out the superintendent's duties and authority. [PL 1995, c. 502, Pt. H, §4 (AMD).]

B. The superintendent may employ or engage such expert, professional or other assistance as may be necessary to assist the bureau in carrying out its functions. [PL 1975, c. 500, §1 (NEW).]

C. In addition to salaries or wages, all employees of the bureau shall receive their actual expenses incurred in the performance of their official duties. [PL 1975, c. 500, §1 (NEW).]

[PL 1995, c. 502, Pt. H, §4 (AMD).]

**3. Training of bureau personnel.** At the expense of the bureau, the superintendent may train the deputy superintendents and bureau's employees, or have them trained, in a manner the superintendent determines desirable; however training programs may not place such undue emphasis upon safety and soundness of financial institutions that institutions would be inhibited by the bureau from engaging in unusual activities or loans that are in the public interest.

[PL 2007, c. 79, §3 (AMD).]

**4. Contracts for regulatory functions.** The superintendent may employ and engage experts and professionals or other personnel, including other state and federal regulatory agencies, as may be necessary to assist the bureau in carrying out its regulatory functions. The superintendent may contract bureau staff to other state and federal agencies to assist those agencies in carrying out their regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, chapter 155.

[PL 2021, c. 508, §1 (AMD).]

## SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1983, c. 553, §46 (AMD). RR 1993, c. 1, §§25,26 (COR). PL 1995, c. 502, §H4 (AMD). PL 1995, c. 628, §9 (AMD). PL 1999, c. 184, §6 (AMD). PL 2007, c. 79, §§1-3 (AMD). PL 2021, c. 508, §1 (AMD).

## **§212-A. Securities Division**

**(REPEALED)**

## SECTION HISTORY

PL 1985, c. 389, §5 (NEW). PL 1985, c. 785, §B54 (AMD). PL 1989, c. 542, §1 (RPR). PL 1993, c. 410, §K1 (AMD). PL 1995, c. 502, §H5 (AMD). PL 2001, c. 182, §4 (RP).

## **§213. Prohibited relationships with supervised institutions**

### **1. Stockholder; payment from.**

A. Neither the superintendent nor any employee of the bureau shall, during his term of office or while employed by the bureau, be an officer, director, incorporator, employee, attorney or stockholder in any financial institution or financial institution holding company subject to supervision or regulation by the bureau. [PL 1975, c. 500, §1 (NEW).]

B. The superintendent and employees of the bureau shall not, during their terms of office, receive directly or indirectly any payment or gratuity from any financial institution subject to supervision or regulation by the bureau. The prohibitions contained in this paragraph shall not be construed as prohibiting such person from being a depositor or member in any such financial institution on the same terms as are available to the public generally. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

## **2. Loans from supervised institutions.**

A. If the superintendent, a deputy superintendent, examiner or other professional personnel of the bureau or such person's spouse or such person's son or daughter residing at such person's home obtains a loan from any financial institution subject to supervision or regulation by the bureau, the fact of such loan, together with the terms and conditions thereof, must be disclosed immediately to the superintendent in writing by the person obtaining the loan and by the institution making such loan. If the superintendent is the borrower, such written disclosure must be made to the commissioner. [PL 2017, c. 288, Pt. A, §13 (AMD).]

B. A record of any indebtedness described in paragraph A shall be kept on file in the bureau so long as such indebtedness is outstanding. [PL 1975, c. 500, §1 (NEW).]

C. The superintendent, or the commissioner if the superintendent is the borrower, may make an investigation of such loan to insure that its terms, conditions and amount are reasonable and proper under the circumstances, and that no preferential treatment has been given in the process of granting such loan. [PL 1975, c. 500, §1 (NEW).]

[PL 2017, c. 288, Pt. A, §13 (AMD).]

**3. Additional limitations.** The provisions of this section shall be in addition to the limitations of Title 5, section 18.

[PL 1979, c. 734, §7 (NEW).]

## SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §5 (AMD). PL 1979, c. 663, §30 (AMD). PL 1979, c. 734, §7 (AMD). PL 2017, c. 288, Pt. A, §13 (AMD).

## **§214. Revenues and expenses**

**1. Examination expenses.** The expenses of the bureau necessarily incurred in the examination of financial institutions under its supervision shall be chargeable to such financial institutions as follows:

A. Every financial institution shall be assessed for the actual expenses incurred by the bureau in connection with any examination or investigation, whether regular or special, such assessments to include the proportionate part of the salaries of the examiners while engaged at such institutions and the board, room and travel expenses of such persons while away from home. [PL 1975, c. 500, §1 (NEW).]

B. Such assessment shall be made by the superintendent as soon as feasible after the close of such examination or investigation and notice thereof shall forthwith be sent to such institution. [PL 1975, c. 500, §1 (NEW).]

C. All assessments so made shall be paid to the Treasurer of State by such institutions within 30 days following such notice. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

## 2. Assessment on financial institutions.

A. To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, transportation and general office and administrative expenses, except as otherwise provided in this paragraph, the superintendent shall assess each financial institution under the superintendent's supervision at the annual rate of at least 6¢ for each \$1,000 of the total of average assets, as defined by the superintendent. The frequency of assessment may coincide with the frequency of filing periodic financial reports with the bureau but may not be more frequent than quarterly. The superintendent may raise the minimum assessment rate of 6¢ for each \$1,000 of the total of average assets by adopting rules pursuant to section 251 at such time as economic conditions warrant such an increase. Except as otherwise provided in this paragraph, in no event may the assessment be less than \$25. The superintendent may lower or suspend by rule or order any assessment specified in this paragraph or established by rule pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 30, §1 (AMD).]

B. An assessment pursuant to paragraph A may be made on or before the assessment date for the period prescribed as follows:

	Period ending	Assessment date
Quarterly	March 31st	May 1st
	June 30th	August 1st
	September 30th	November 1st
	December 31st	February 1st

The superintendent shall notify the financial institution of the assessment. The assessment must be paid to the Treasurer of State within 10 days following the assessment date. [PL 2003, c. 322, §6 (AMD).]

[PL 2023, c. 30, §1 (AMD).]

**2-A. Assessment on interstate branches of out-of-state financial institutions.** To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, general office and administrative expenses, the superintendent may assess a fee to be paid by each out-of-state financial institution that operates one or more branches in this State. The amount and timing of payment of this assessment must be determined through rulemaking by the bureau, but in no event may the amount exceed \$500 per branch annually. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1995, c. 628, §10 (NEW).]

**2-B. Assessment on nondepository trust companies.** Except as otherwise provided in this subsection, nondepository trust companies that are not affiliated with a financial institution shall pay an assessment at the annual rate of not less than \$2,000 or an amount determined by the superintendent of at least 6¢ for every \$10,000 of fiduciary assets under its management, custody or care. The superintendent may further define by rule fiduciary assets under management, custody or care or change the minimum assessment whenever economic conditions warrant such a change. The superintendent may lower or suspend by rule or order any assessment specified in this subsection or established by rule pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. These assessments must be paid in accordance with subsection 2, paragraph B.

[PL 2023, c. 30, §2 (AMD).]

**2-C. Assessment on uninsured bank or merchant bank.** If an uninsured bank or merchant bank predominately engages in the business of a nondepository trust company, then the uninsured bank or merchant bank shall pay an assessment as prescribed in subsection 2-B. Otherwise, an uninsured bank or merchant bank shall pay an assessment as prescribed in subsection 2.  
[PL 2003, c. 322, §8 (AMD).]

**3. Operating fund.** The aggregate of payments provided for by this section and elsewhere in this Title is appropriated for the use of the bureau. Any balance of said funds shall not lapse but shall be carried forward to be expended for the same purposes in succeeding fiscal years.  
[PL 1975, c. 500, §1 (NEW).]

**4. Penalty.** Any financial institution that fails to make the payments required under this section within the time specified is subject to a penalty of not more than \$500 per day for each day it is in violation of this section, which penalty, together with the amount due under the provisions of this section, may be recovered in a civil action in the name of the State.  
[PL 2003, c. 322, §9 (AMD).]

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1983, c. 201, §1 (AMD). PL 1991, c. 669, §1 (AMD). PL 1991, c. 669, §2 (AFF). PL 1993, c. 538, §1 (AMD). PL 1995, c. 628, §10 (AMD). PL 1997, c. 398, §K1 (AMD). PL 2001, c. 211, §§3,4 (AMD). PL 2003, c. 322, §§6-9 (AMD). PL 2023, c. 30, §§1, 2 (AMD).

#### §215. Rules

The superintendent shall have the power to implement by rule any provision of law relating to the supervision of financial institutions or their subsidiaries or financial institution holding companies or their subsidiaries or to amend or repeal such rules, subject to section 251. [PL 1985, c. 328, §2 (AMD).]

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1985, c. 328, §2 (AMD).

#### §216. Advisory boards

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1981, c. 501, §29 (RP).

#### §217. Annual reports to the Legislature

The superintendent shall report to the Legislature by January 15th of each year the applications received and any actions taken pursuant to chapters 35 and 101. The report shall include, but not be limited to, detailed information on the number, types and legal structures of all regulated financial institutions in the State, the locations of all offices and total deposits held by these institutions, the steps taken or planned by nonstate financial institution holding companies that have received approval under chapter 101 for acquisition or establishment to meet the credit needs of consumers and small businesses and an analysis of the impact of applications approved under chapters 35 and 101 on the banking structure of the State and the credit needs of the state's citizens and businesses. [PL 1983, c. 816, Pt. B, §2 (NEW).]

#### SECTION HISTORY

PL 1983, c. 816, §B2 (NEW).

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