

CHAPTER 22**EXAMINATIONS, RECORDS AND REPORTS****§221. Examinations**

1. Requirements. The superintendent shall examine each financial institution organized under the laws of this State at least once every 36 months or more frequently as the superintendent determines. The superintendent may examine an out-of-state financial institution operating branches in this State in order to determine compliance with the laws of this State and to ensure that the activities of each branch are conducted in a safe and sound manner.

The superintendent must have full access to the vaults, books and papers of the financial institution or branch of the out-of-state financial institution being examined. The superintendent may make any inquiries necessary to determine the condition of the financial institution or the branch of the out-of-state financial institution and its compliance with the laws of this State. The directors, incorporators, officers, employees and agents of a financial institution and the officers, employees and agents of the out-of-state financial institution, the branch of which is being examined, shall furnish statements and full information to the superintendent or the superintendent's examiners related to the condition and standing of the institution or branch being examined and all matters pertaining to its business and management.

[PL 1995, c. 628, §11 (RPR).]

2. Exception. In satisfaction of the examination requirements of this section, the superintendent may accept the examination reports of other state, federal or foreign regulatory agencies as a method of satisfying such requirements in whole or in part.

[PL 2001, c. 211, §5 (AMD).]

3. Joint examinations with other state, federal or foreign regulatory agencies. In satisfaction of the examination requirements of this section, the superintendent may conduct joint examinations of financial institutions organized under the laws of this State or branches of out-of-state financial institutions operating branches in this State with other state, federal or foreign regulatory agencies. For purposes of this section, "joint examination" means an examination conducted simultaneously by 2 or more regulatory agencies in which one examination report is issued.

[PL 1995, c. 628, §11 (NEW).]

4. Affiliates. The superintendent may examine the affairs of the affiliates of a financial institution, other than a federally chartered financial institution, as necessary to fully disclose the relationship between the financial institution and its affiliates and the effect of those relationships on the affairs of the financial institution.

[PL 2001, c. 211, §6 (NEW).]

5. Service corporations. The superintendent may examine any service corporation established pursuant to section 445 or 864 or any bank service company established under the federal Bank Service Company Act that provides services to a financial institution. Whenever a financial institution or any affiliate other than a financial institution causes to be performed for itself by contract or otherwise any services authorized for service corporations under section 131, whether on or off premises, such performance is subject to regulation and examination of the superintendent as if such services were being performed by the financial institution or affiliate itself on its own premises.

[PL 2001, c. 211, §6 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1977, c. 152, §1 (AMD). PL 1985, c. 763, §A64 (AMD). PL 1995, c. 628, §11 (RPR). PL 2001, c. 211, §§5,6 (AMD).

§222. Reports and other information from supervised institutions

1. General requirement. In addition to the reports required pursuant to this section, the superintendent may require, from a financial institution organized under the laws of this State and from an out-of-state financial institution authorized to do business in this State, reports and other information from those institutions at those times and in such form as the superintendent considers appropriate for the proper supervision and regulation of those institutions.

[PL 1995, c. 628, §12 (AMD).]

2. Designation of chief executive officer.

[PL 1997, c. 398, Pt. K, §2 (RP).]

3. Condition and income reports. Every financial institution subject to this Title shall make quarterly, or at such times as the superintendent may direct, a report of condition and income to the superintendent. The report must be in such form and contain such information as the superintendent considers appropriate for the proper supervision and regulation of such financial institutions.

The report must contain a declaration that the report is true and correct and must be signed by an officer authorized to do so by the board of directors of the financial institution. The financial institution shall retain a copy of the report that is filed with the bureau, including the original signed declaration, and shall make it available to the bureau upon request.

A. [PL 2009, c. 228, §2 (RP).]

B. [PL 2009, c. 228, §2 (RP).]

[PL 2009, c. 228, §2 (RPR).]

4. Use of reports prepared for other state or federal regulatory agencies. At the discretion of the superintendent, the reporting requirements of this section may be complied with by submitting to the superintendent copies of reports prepared for other state or federal regulatory agencies by the institution that contain the information requested.

[PL 1995, c. 628, §12 (AMD).]

5. Penalties. Any financial institution which shall fail to furnish reports and information required pursuant to this section, within the time specified, shall be subject to a penalty of not more than \$100 for each day it is in violation of this section, which penalty may be recovered in a civil action brought in the name of the State.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1979, c. 429, §§1,2 (AMD). PL 1995, c. 628, §12 (AMD). PL 1997, c. 398, §K2 (AMD). PL 2001, c. 211, §7 (AMD). PL 2009, c. 228, §2 (AMD).

§223. Publication and posting of reports

1. Condition and income reports.

[PL 1995, c. 24, §3 (RP).]

2. Reports posted in offices. Every limited purpose bank shall make available in all of its offices at least 10 days, but not more than 30 days, prior to the annual meeting of its stockholders, corporators, members or other holders of equity interests, its latest condition report or a condition report for its most recently completed fiscal year, and a report of income for the institution's most recently completed fiscal year. In addition to making available its latest condition report or condition report for its most recently completed fiscal year, a limited purpose bank shall make available a report of its fiduciary

assets and income. Every federally insured financial institution shall post a notice in its main office that the financial institution's latest condition and income reports are available to the public upon request. [PL 2023, c. 30, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §6 (AMD). PL 1979, c. 429, §3 (AMD). PL 1995, c. 24, §3 (AMD). PL 2009, c. 228, §3 (AMD). PL 2023, c. 30, §3 (AMD).

§224. Records to be kept by supervised institutions

1. Records for superintendent. A financial institution authorized to do business in this State shall keep those books, accounts and records relating to all transactions that enable the superintendent to ensure full compliance with the laws of this State.

[PL 1995, c. 628, §13 (AMD).]

2. Loans and investments. The board of each financial institution shall establish written policies for approval of loans and investments. In the policies, the board may delegate to officers, employees or committees comprised of officers, employees, or board members, the authority to approve loans and investments. The board may retain authority to approve or ratify types or classes of loans or investments as it considers reasonable. The board shall retain authority to approve or ratify types or classes of loans or investments where the approval is otherwise specifically required by this Title. The superintendent has authority to review loan and investment policies to assure that they contribute to the safety and soundness of the institution. A record of all loans and investments of every description made by a financial institution shall be kept in a book or books appropriate, substantially in the order of the time when the loans or investments are made. The record shall be made available to the superintendent and, if requested for the purpose of reviewing the financial responsibility of management by a vote of the directors, corporators, members of stockholders, the record shall be submitted to those persons. Records of loan and investment approvals shall be maintained and shall be available for the review of directors and of the superintendent.

[PL 1985, c. 83, §1 (RPR).]

3. Agreements with directors, officers and corporators. A financial institution shall maintain records of all agreements between the institution and its directors, officers and corporators and all persons acting on behalf of such persons, including, but not limited to, all loans and other contracts.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1985, c. 83, §1 (AMD). PL 1995, c. 628, §13 (AMD).

§225. Retention of financial institution records

1. Superintendent's authority. All records of financial institutions authorized to do business in this State and of credit unions authorized to do business in this State, insofar as this section does not contravene paramount federal law, must be retained for such minimum periods as the superintendent may prescribe.

[PL 2003, c. 322, §10 (AMD).]

2. Minimum retention period. The superintendent may from time to time issue regulations classifying all records kept by these institutions and prescribing the minimum period for which these records shall be retained. Such periods may be permanent or for a lesser term. Such regulations may be amended or repealed from time to time; provided that any amendment or repeal shall not affect any action taken prior to such amendment or repeal.

[PL 1975, c. 500, §1 (NEW).]

3. Retention criteria. Prior to issuing regulations pursuant to subsection 2, the superintendent shall consider:

- A. Court and administrative proceedings in which the production of these records might be necessary or desirable; [PL 1975, c. 500, §1 (NEW).]
 - B. State and federal statutes of limitation applicable to such proceedings; [PL 1975, c. 500, §1 (NEW).]
 - C. The availability of information from other sources; and [PL 1975, c. 500, §1 (NEW).]
 - D. Such other matters as the superintendent shall deem pertinent in order that the regulations will require retention of records for such reasonable period as is commensurate with the interests of customers, depositors, stockholders and the people of this State in having such records available. [PL 1975, c. 500, §1 (NEW).]
- [PL 1975, c. 500, §1 (NEW).]

4. Reproductions. Reproductions, as defined by Title 16, section 456 shall be deemed acceptable, in lieu of the originals, for purposes of the prescribed periods for which such records shall be retained. [PL 1975, c. 500, §1 (NEW).]

5. Disposal of records. Institutions may dispose of any record which has been retained for the minimum period prescribed by the superintendent. [PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 2003, c. 322, §10 (AMD).

§226. Confidentiality

1. Requirement. Except as provided in subsections 2 and 3, the following information derived by or communicated to the superintendent or to any employee of the bureau is confidential and may not be disclosed or made public:

- A. Information designated confidential under federal law or regulations; [PL 2007, c. 597, §11 (NEW).]
 - B. Examination and investigative working papers and reports; [PL 2007, c. 597, §11 (NEW).]
 - C. Personal identifying information of consumers and other complainants who contact the bureau; [PL 2007, c. 597, §11 (NEW).]
 - D. Personal identifying information of the governing body organizers and the proposed investors of a financial institution contained in an application filed with the bureau; [PL 2007, c. 597, §11 (NEW).]
 - E. Privileged trade secrets, detailed business plans and commercial or financial information that, if disclosed to the public, would cause detriment to the financial institution; and [PL 2007, c. 597, §11 (NEW).]
 - F. Information other than that in paragraphs A to E for which the superintendent determines that confidential treatment is necessary and appropriate for the supervision of a specific financial institution or for state-chartered financial institutions in general. [PL 2007, c. 597, §11 (NEW).]
- [PL 2007, c. 597, §11 (AMD).]

2. Disclosure to Governor; Attorney General. The superintendent may disclose such information to the Governor or to the Attorney General of this State at such times and under such circumstances as the superintendent deems necessary and appropriate to the proper discharge of his duties and responsibilities under this Title; and the superintendent shall disclose such information upon written request of the Governor or Attorney General. [PL 1975, c. 500, §1 (NEW).]

3. Disclosure to others. The superintendent may disclose the information specified in subsection 1 to the following persons or entities, except that information furnished to the superintendent that has been designated as confidential by a state or federal agency furnishing the information may not be disclosed by the recipient of the information unless disclosure has been authorized by the furnishing agency. Whenever confidential information is disclosed pursuant to this section, the information remains the property of the bureau or the furnishing agency and the recipients of the confidential information may not disclose or make public information so communicated, except as authorized by the superintendent or pursuant to other provisions of this Title:

A. The Treasurer of State and the Commissioner of Professional and Financial Regulation; [PL 1995, c. 628, §14 (AMD).]

B. [PL 1995, c. 628, §14 (RP).]

C. State departments that, in the opinion of the superintendent, require this information; [PL 1995, c. 628, §14 (AMD).]

D. Other persons, including other state, foreign or federal regulatory officials, who, in the opinion of the superintendent, require this information to facilitate the general conduct of supervisory activities of the bureau; [PL 1995, c. 628, §14 (AMD).]

E. A court of law or equity, but only with the written consent of the superintendent or pursuant to a special order of the court; and [PL 1995, c. 628, §14 (AMD).]

F. To those persons or entities necessary in order to comply with provisions of this Title relating to legal or regulatory proceedings and to disclosure or publication of certain applications, reports, statistics and information. [PL 2007, c. 597, §12 (AMD).]

[PL 2007, c. 597, §12 (AMD).]

4. Penalty. A person who intentionally or knowingly discloses confidential information in violation of this section commits a Class E crime.

[PL 2007, c. 597, §13 (RPR).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §7 (AMD). PL 1979, c. 541, §A89 (AMD). PL 1995, c. 628, §14 (AMD). PL 1999, c. 184, §7 (AMD). PL 2007, c. 597, §§11-13 (AMD).

§226-A. Cooperative agreements

The superintendent may enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the bureau, including, but not limited to, information sharing, coordination of examinations and joint examinations. [PL 1999, c. 184, §8 (AMD).]

SECTION HISTORY

PL 1995, c. 628, §15 (NEW). PL 1999, c. 184, §8 (AMD).

§227. Subpoena powers

The superintendent shall have the power and authority to summon persons and subpoena witnesses, compel their attendance, require production of evidence, administer oaths and examine any person under oath in connection with any subject related to the supervision and regulation of financial institutions. Any summons or subpoena may be served by registered mail with return receipt. Powers granted under this section may be enforced by the Superior Court. [PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW).

§228. Report of violations

1. Requirement. If, in the opinion of the superintendent, any financial institution authorized to do business in this State or credit union authorized to do business in this State, or the officers, corporators, directors, employees or agents of any financial institution authorized to do business in this State or credit union authorized to do business in this State, has persistently violated any provision of this Title or rule adopted under this Title, the superintendent shall report the violation, with any remarks the superintendent determines appropriate, to the Attorney General who may institute a prosecution of the violation on behalf of the State.

[PL 2003, c. 322, §11 (AMD).]

2. Penalty. The penalty for such violation, unless otherwise prescribed, shall be not less than \$500 nor more than \$1000.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 2003, c. 322, §11 (AMD).

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