

# BANKING DEPARTMENT



Peter C. Hildreth, Commissioner  
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Phone 603-271-3561 \* [www.nh.gov/banking](http://www.nh.gov/banking)

Issue 08-2

## We Have Moved!

As of June 12 the Banking Department has relocated to 53 Regional Drive, Suite 200, in Concord, NH.

Our phone and fax numbers remain as follows:

Main Phone Number           603-271-3561  
Fax Numbers                   603-271-1090  
   603-271-0750

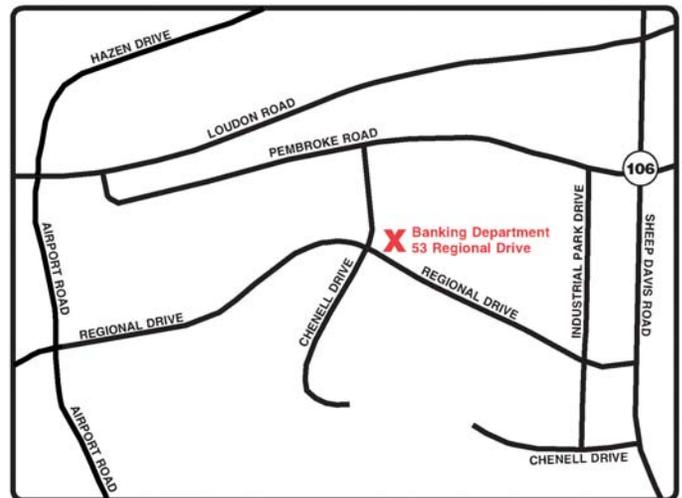


## Noble Trust Liquidation

On March 27, 2008 the Merrimack County Superior Court entered an order appointing Banking Department Commissioner Peter C. Hildreth as Liquidator for the Noble Trust Company.

The Banking Department has begun the process of notifying clients, securing assets held at other companies, and accepting claims against the Noble Trust Company.

For additional information please visit:  
<http://www.nh.gov/banking/nobletrust.html>



## Personnel Changes

Paralegal Michele Kelleher has joined the Consumer Credit Division.

Paralegal Jennifer McAllister and Attorney James Shepard have left the Department.

## Escrow Rate

The escrow rate for the period August 1, 2008 through January 31, 2009 is 0.07%.

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## BANKING DIVISION NEWS

### Fiduciary & Related Services Reporting Changes

*By Jack Thomas, Bank Examiner*

The New Hampshire Banking Department is requesting additional information to be reported quarterly on Call Report Schedule RC-T for those institutions or their subsidiaries offering fiduciary and related services. This change will begin with the September 30, 2008 filing period. Please be aware that this particular Call Report schedule will differ from the FFIEC forms given the presence of two additional reporting items.

New reporting will include the following:

- 1) opened but unfunded accounts (“dry trusts”), and
- 2) circumstances where institutions serve in the capacity of trust protector.

Be sure to download the latest Call Report forms from the Department’s website once they become available (target timeframe is late August/early September 2008).

### Electronic Notification of Suspicious Activity Reports (SAR)

*By Robin Boman, Bank Examiner*

A reminder to banks, credit unions, and trust companies of a prior change to reporting requirements.

New Hampshire RSA 384:36 – Reports of Proscribed Activity requires state chartered financial institutions to concurrently file with the Department a SAR when it is filed with the institution’s federal regulator.

State chartered institutions who submit SAR(s) to FinCEN may notify the Department of their SAR filing(s) by connecting to the link “Notice of FinCEN Filing” found on the Department website under the Banking tab. The content of the SAR is not reported in detail on the form.

Electronically notifying the Department of a SAR filing will eliminate the need to file a paper copy of the SAR. For greater efficiency and security, if possible, you are encouraged to use this method of reporting. Once the “notice” is filed, authorized Department personnel will be alerted and able to review the filing on FinCEN’s secure network.

If you do not notify the Department electronically of the SAR filing, you must forward a hard copy of the SAR to the Department.

## CONSUMER CREDIT DIVISION NEWS

### Nationwide Mortgage Licensing System (NMLS) Update

*By Celeste Couture, Licensing Supervisor*

Effective July 1, 2008, the New Hampshire Banking Department began participating in the CSBS/AARMR Nationwide Mortgage Licensing System. At the same time the states of Connecticut and Vermont have joined New Hampshire as new participants in the system, bringing the number of New England states who are participating to five out of six.

This secure website will enable mortgage bankers, mortgage brokers, and mortgage servicers to manage their licenses or registrations (in the case of mortgage servicers) electronically. Once filed, companies will also use the system to make changes to their records such as address and name changes, and other amendments that were formerly handled through the mail on paper.

Companies currently licensed or registered who do not have an existing record on the NMLS with another state will have until October 1, 2008 to transition. "Transition" means that the information currently existing as paper licensing documents on file with the Banking Department must be converted to an electronic version that will be housed on the NMLS. The information found on the company's Uniform Mortgage Company Application Form (Form MU1), its current Branch Office Form(s) (Form MU3), and its Uniform Mortgage Biographical Statement forms for each of its control persons/principals and branch managers (Form MU2) are included in this transition.

Many companies, however, may already have a record with another participating jurisdiction on the NMLS. In that case, transitioning would only

require the companies to update their current filing on the system to add New Hampshire and file minimal jurisdiction-specific items directly with the Banking Department.

We encourage all companies to begin the transition process immediately, because effective April 1, 2009, New Hampshire will begin licensing mortgage originators, and those applications can only be filed through the NMLS. In order for a mortgage originator to become licensed in New Hampshire, the individual must be sponsored by a company who also is licensed in New Hampshire. Therefore, the company will have to have its licensing record filed on the NMLS in order to license its originators.

Even though originator filings cannot be submitted until April 1, 2009, companies can begin entering the information on the MU4 (originator) filings to license each of their originators on the NMLS on January 1, 2009. That will give companies with large numbers of originators adequate time to get all of them onto the system.

Those companies who have successfully transitioned their paper filings or have filed new applications which have been approved by October 31, 2008, will renew their licenses electronically through the NMLS. Companies who have not transitioned by that date will have to be renewed directly through the Banking Department as has been the procedure in prior years.

*Continued on next page*

## CONSUMER CREDIT DIVISION NEWS

### Nationwide Mortgage Licensing System (Continued)

Again, we encourage you to visit either the [Department's website](#) which will direct you to links to the NMLS or [visit the NMLS website](#) directly for instructions.

The number to contact for any information, questions or filing assistance on the NMLS is the

Call Center at 240-386-4444. The individuals at that location are specially trained to provide assistance in all aspects of the system. They will, however, refer callers to the states themselves for questions on certain jurisdiction policies or procedures.

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### New State Laws

*By Mary L. Jurta, Director of Consumer Credit*

The text of the changes to the laws that were made this past legislative session may be obtained by going to [the State of NH website](#) and doing a "quick search" on the bill number provided below.

#### Mortgage Originators

New Hampshire will join the host of other states that license mortgage loan originators beginning on April 1, 2009 under the provisions of **HB 1286**. The definition of a mortgage originator is

"Originator" means an individual who is employed or retained and supervised by a mortgage banker or mortgage broker required to be licensed under RSA 397-A and who, for compensation or gain or in the expectation of compensation or gain, negotiates, solicits, arranges, or finds a mortgage loan. No individual may act as an originator for more than one licensee.

Originators will be licensed through the National Mortgage Licensing System (NMLS). The link to that system [is provided here](#) and can be found on our webpage at [nh.gov/banking](#) (for more

information on the NMLS please see the related article in this Newsletter).

Prior to April 1, 2009 all companies licensed in New Hampshire as mortgage brokers or mortgage bankers must set up company records and file applications on the NMLS to license all individuals who will originate mortgage loans in New Hampshire. Any individual conducting mortgage origination activity after April 1, 2009 without first obtaining a license from New Hampshire through the NMLS will be conducting unlicensed activity and both the individual and the employing company will be subject to the penalties under RSA 397-A. ([Click here to view the RSA](#))

#### Payday Lending

HB 267 limits the amount of interest a person can be charged for payday and title loans to 36% and "interest" includes most all charges that can be incurred by a borrower for taking a loan. Internet payday lenders cannot conduct business in New Hampshire because to obtain the required license all payday and title loan lenders must have a physical place of business in the

## CONSUMER CREDIT DIVISION NEWS

### New State Laws (Continued)

State of New Hampshire.

**SB 472** changes the definition of payday loan so that it reads:

“Payday loan” means a short-maturity, secured or unsecured loan, other than a title loan.

#### Small Loan Brokers Must Be Licensed

The additions to the definition of “lender” in RSA 399-A, **SB 472** effectively require the licensing of small loan brokers in New Hampshire. The new definition is

*“Lender” means individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies or other forms of organizations that lend money or give credit temporarily on condition that the amount borrowed be returned, usually with an interest fee. “Lender” shall not include a financial institution. “Lender” shall include a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:*

- (a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.*
- (b) Offers to serve as an agent for any person in an attempt to obtain a loan.*
- (c) Offers to serve as an agent for any person who has money to lend for a loan.*

*(d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.*

Companies acting as agents or intermediaries for any company or individual who has money to lend will have to be licensed as lenders themselves under the new language (italicized above).

#### Enforcement Strength Added to Consumer Credit Regulation

In addition to making several technical corrections to the Consumer Credit statutes, **HB 759** strengthens the enforcement of the consumer credit statutes by adding anti-fraud provisions and providing for criminal penalties for fraud and for violation of Department issued Cease & Desist Orders. The bill, which becomes effective on August 15, 2008, gives the Commissioner the ability to get a court injunction and to bar a person from the industry. It requires licensees to pay for experts to recreate inadequate books and records. Mortgage companies must now conduct background checks, including checking the Office of Foreign Assets Control (OFAC) list, on all mortgage loan originators.

The bill changes the due date of the annual report, the report that licensees must file each year to report the business conducted for the prior year in this state, to March 31st from the original date of February 1st, thereby giving licensees a little more time to make the filing deadline.

## CONSUMER CREDIT DIVISION NEWS

### New State Laws (Continued)

#### Money Transmitter Act Amended

**SB 439** becomes effective on January 1, 2009 and requires all money transmitters to maintain a net worth of the lesser of their average outstanding balances for the past year or \$1,000,000. **HB 759** requires each money transmitter to submit *audited* financial statements to the department within 90 days of its fiscal year end. In addition under **SB 439**, money transmitters are required to implement a system of education, training, monitoring, and periodic inspection designed to inform their authorized delegates of their responsibilities, consistent with the Bank Secrecy Act and the requirements to file reports required by federal law. These reports include Currency Transaction Reports and Suspicious Activity Reports, both of which are crucial to root out criminal activity. The bill adds the authority of the Department to revoke the registrations of authorized delegates (the store front locations) of money transmitters.

#### HB 1591 – An ACT relative to vehicles traded to automobile dealers

This bill provides that when a person accepts a motor vehicle with an outstanding lien as part of a retail transaction, the person shall pay off the outstanding lien within a specified period of time.

[Click here to view the RSA.](#)

#### SB 315 – An ACT preventing the fraudulent use of the names of financial institutions.

- I. Allows the Bank Commissioner to serve a cease and desist order to certain violators.
- II. Gives the Bank Commissioner authority to enforce cease and desist orders.
- III. Prohibits the unauthorized use of the name of a financial institution.

[Click here to view the RSA.](#)