

§13-115. Investigation and examination authority

In addition to any authority allowed under this Article, the administrator may conduct an investigation and examination as follows. [PL 2009, c. 362, Pt. B, §1 (NEW).]

1. Authority to access information. For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination or general or specific inquiry or investigation to determine compliance with this Article, the administrator may access, receive and use any books, accounts, records, files, documents, information or evidence, including but not limited to:

A. Criminal, civil and administrative information, including confidential criminal history record information as defined in Title 16, section 703, subsection 2; [PL 2013, c. 267, Pt. B, §3 (AMD).]

B. Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in the federal Fair Credit Reporting Act, Section 603(p); and [PL 2009, c. 362, Pt. B, §1 (NEW).]

C. Any other documents, information or evidence the administrator determines relevant to the inquiry or investigation regardless of the location, possession, control or custody of those documents, information or evidence. [PL 2009, c. 362, Pt. B, §1 (NEW).]

[PL 2013, c. 267, Pt. B, §3 (AMD).]

2. Investigation, examination and subpoena authority. For the purposes of investigating violations or complaints arising under this Article or for the purposes of examination the administrator may review, investigate or examine any licensee, individual or person subject to this Article as often as necessary. The administrator may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of an examination or investigation and may direct, subpoena or order those persons to produce books, accounts, records, files and any other documents the administrator considers relevant to the inquiry. [PL 2009, c. 362, Pt. B, §1 (NEW).]

3. Availability of books and records. Each licensee, individual or person subject to this Article shall make available to the administrator upon request the books and records relating to the operations of that licensee, individual or person. The administrator has access to such books and records and may interview the officers, principals, mortgage loan originators, employees, independent contractors, agents and customers of the licensee, individual or person concerning their business. [PL 2009, c. 362, Pt. B, §1 (NEW).]

4. Reports and other information as directed. Each licensee, individual or person subject to this Article shall make or compile reports or prepare other information as directed by the administrator in order to carry out the purposes of this section, including but not limited to:

A. Accounting compilations; [PL 2009, c. 362, Pt. B, §1 (NEW).]

B. Information lists and data concerning loan transactions in a format prescribed by the administrator; and [PL 2009, c. 362, Pt. B, §1 (NEW).]

C. Other information considered necessary to carry out the purposes of this section. [PL 2009, c. 362, Pt. B, §1 (NEW).]

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5. Control access to records. In making any examination or investigation authorized by this Article, the administrator may control access to any documents and records of the licensee or person under examination or investigation. The administrator may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person may remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the administrator. Unless the administrator has reasonable grounds to believe the documents or records of

the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Article, the licensee or owner of the documents and records may have access to the documents or records as necessary to conduct ordinary business affairs.

[PL 2009, c. 362, Pt. B, §1 (NEW).]

6. Additional authority. In order to carry out the purposes of this section, the administrator may:

A. Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in examinations or investigations; [PL 2009, c. 362, Pt. B, §1 (NEW).]

B. Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures and documents, records, information or evidence obtained pursuant to this section; [PL 2009, c. 362, Pt. B, §1 (NEW).]

C. Use, hire, contract or employ public analytic methods or privately available analytic methods or software to examine or investigate the licensee, individual or person subject to this Article; [PL 2009, c. 362, Pt. B, §1 (NEW).]

D. Accept and rely on examination or investigation reports made by other government officials within or without this State; [PL 2009, c. 362, Pt. B, §1 (NEW).]

E. Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this Article in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the administrator; or [PL 2009, c. 362, Pt. B, §1 (NEW).]

F. Assess the cost of the services described in paragraph A against the licensee, individual or person subject to this Article. [PL 2009, c. 362, Pt. B, §1 (NEW).]

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7. Effect of authority. The authority of this section remains in effect, whether such a licensee, individual or person subject to this Article acts or claims to act under any licensing or registration law of this State or claims to act without such authority.

[PL 2009, c. 362, Pt. B, §1 (NEW).]

8. Withhold records. A licensee, individual or person subject to investigation or examination under this section may not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

[PL 2009, c. 362, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 362, Pt. B, §1 (NEW). PL 2013, c. 267, Pt. B, §3 (AMD).

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