

CHAPTER 25**ADMINISTRATIVE PROCEDURES****§251. Rule-making**

Promulgation of rules of the bureau, and amendments thereto, shall conform to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [PL 1983, c. 182 (AMD).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §§7-A,8,9 (AMD). PL 1977, c. 694, §158 (RPR). PL 1983, c. 182 (AMD).

§252. Decision-making

Decision-making of the bureau shall conform to the requirements of this section. [PL 1975, c. 500, §1 (NEW).]

1. Definition. "Decision-making" is that process by which the superintendent determines whether an application for a charter, branch, merger, acquisition, conversion, subsidiary formation or other similar request submitted to the bureau should be approved or disapproved, but does not include applications for a change in a financial institution's organizational documents, changes in the capital structure of any institution, conversions of investor ownership pursuant to section 345-B or such other matters of a similar nature as the superintendent may determine, unless otherwise provided in this Title. [PL 1997, c. 398, Pt. K, §3 (AMD).]

2. Application and notice.

A. Upon receipt of an application subject to this section, the superintendent shall determine whether the application is complete. The superintendent shall have the power to request modifications in, and additional information relating to, any application prior to certifying its completeness. [PL 1977, c. 694, §159 (RPR).]

B. As soon as the superintendent determines that the application is complete, he shall instruct the applicant to provide notice of the application in the manner and form prescribed in Title 5, section 9052. [PL 1977, c. 694, §159 (RPR).]

C. The superintendent may suspend or postpone action on an application after the first publication of notice pursuant to paragraph B, upon written request of the applicant or on the superintendent's own initiative for good cause shown. Good cause includes a judgment by the superintendent that the bureau lacks the present capacity to adequately ensure the safety and soundness of the proposed institution or activity. The superintendent shall promptly provide notice of any suspension or postponement in the same manner and in the same publications in which the original notice of application was provided. If and when action is resumed on the application, the superintendent shall again provide notice in the same manner and in the same publications in which the preceding notices were provided. [PL 2023, c. 30, §4 (AMD).]

[PL 2023, c. 30, §4 (AMD).]

2-A. Preliminary review. Prior to the filing of an application pursuant to subsection 2, a potential applicant may request a preliminary review of the prospective application. If the review is undertaken, the bureau may assess the prospective applicant a fee in accordance with the bureau's fee schedule. A fee paid for the preliminary review may be credited to the application fee if and when an application is filed within a reasonable time.

[PL 1997, c. 398, Pt. K, §4 (NEW).]

3. Application on file. Applications accepted by the superintendent shall be placed on public file at the office of the bureau, and shall be made available for public inspection or copying, at cost; provided that the superintendent shall delete from the public file copy of an application all confidential information, materials and statements regarding the applicant.

[PL 1975, c. 500, §1 (NEW).]

3-A. Confidential treatment of other state and federal regulatory information. Any records or information in the possession of any state or federal agency involved in the regulation of financial institutions or financial institution holding companies or the affiliates or subsidiaries of financial institutions or financial institution holding companies that is recognized under state or federal law as confidential remains confidential if delivered or disclosed to the superintendent or a bureau employee in the course of a decision-making proceeding under this chapter. The superintendent may rely upon any records or information considered confidential pursuant to this subsection as the basis for a decision on an application if these records or information is disclosed to the applicant and any interested party to the proceeding.

[PL 1999, c. 184, §9 (AMD).]

4. Submission of written comments.

A. During the comment period set forth in the notice, an interested party or member of the public may submit written comments on the proposed application. [PL 1975, c. 500, §1 (NEW).]

B. Such comments shall be maintained in the public files of the bureau, and copies shall be available to the public at cost. [PL 1975, c. 500, §1 (NEW).]

C. The superintendent may, but shall not be compelled to, receive written comments after the close of the written comment period. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

5. Hearing. Requests for a hearing and the procedures for notice and conducting the hearings on applications subject to this section shall be governed by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

[PL 1977, c. 694, §160 (RPR).]

6. Decision. After consideration of all relevant matters presented in the application, in any written comments, in an investigation conducted by the bureau to examine and evaluate facts related to the application to the extent necessary to make an informed decision and at the hearing, if any, the superintendent shall promulgate, in accordance with the Maine Administrative Procedure Act, the final order. Within 5 days of promulgation, notice of the final order setting forth the name of the applicant, the nature of the application and the superintendent's action thereon, together with a statement that copies of the order are available to the public at cost, must be published by the superintendent in those newspapers in which the notice required by subsection 2 was published. Unless the superintendent specifies a later date in the final notice relating thereto, the effective date of the final order is 30 days after its promulgation. The superintendent may waive all or part of the 30-day waiting period following promulgation of the final order, if the superintendent determines that extraordinary or unusual conditions exist that warrant that action. The superintendent shall set forth in writing the circumstances and reasons for waiving all or part of the 30-day waiting period, provided, however, the superintendent shall, within 60 days of the close of the comment period or within 60 days of the conclusion of the hearing if such was held, whichever period is greater, promulgate the final order either approving or disapproving the application.

[PL 1997, c. 398, Pt. K, §5 (AMD).]

7. Time periods.

[PL 1977, c. 694, §162 (RP).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §§9-A,10-12 (AMD). PL 1977, c. 694, §§159-162 (AMD). PL 1995, c. 521, §1 (AMD). PL 1997, c. 398, §§K3-5 (AMD). PL 1999, c. 184, §9 (AMD). PL 2023, c. 30, §4 (AMD).

§253. Criteria for decision-making

The superintendent shall take into account, but is not limited to, the criteria set forth in this section in considering applications filed pursuant to section 252. [PL 1997, c. 398, Pt. K, §6 (AMD).]

1. Public convenience and advantage.

A. The superintendent shall not approve an application unless he determines that the proposed transaction contributes to the financial strength and success of the financial institution or institutions concerned, and promotes the convenience and advantage of the public. [PL 1975, c. 500, §1 (NEW).]

B. Public convenience and advantage shall exist if the superintendent determines, based on all relevant evidence, information and materials, that public benefits, such as increased competition or gains in efficiency, outweigh possible adverse effects, such as decreased or unfair competition, undue concentration of resources, conflicts of interest, or unsafe or unsound practices. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

2. Basis for decision. In addition to the standards set forth in subsection 1, the superintendent shall consider the following factors in determining whether the standard of public convenience and advantage has been met:

A. The character, ability and overall sufficiency of the management, including directors, or organizers, incorporators and incorporators of a new financial institution; [PL 1975, c. 500, §1 (NEW).]

B. The adequacy of capital and financial resources of the institution or institutions concerned; [PL 1975, c. 500, §1 (NEW).]

C. The competitive abilities and future prospects of the institution or institutions concerned; [PL 1975, c. 500, §1 (NEW).]

D. The convenience and needs of the market area or areas to be served; [PL 1975, c. 500, §1 (NEW).]

E. The competitive effect of the proposed transaction on the price, availability and quality of services in the market area or areas to be served; [PL 1975, c. 500, §1 (NEW).]

F. The likely impact of the proposed transaction on other financial institutions in the market area or areas to be served; and [PL 1975, c. 500, §1 (NEW).]

G. The fairness and equities involved in any merger, consolidation, conversion or acquisition. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

3. Burden of proof. In all cases, the burden of proving that public convenience and advantage will be promoted, and that the proposed transaction contributes to the financial strength and success of the institution or institutions concerned, shall rest with the applicant.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §K6 (AMD).

§254. Hearings by superintendent

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §13 (AMD). PL 1977, c. 694, §163 (RP).

§255. Hearings on petition of 25 persons

1. Alleged noncompliance with this Title. A group of 25 or more persons may join together and petition the superintendent as an interested party to hold a hearing if such group submits to the superintendent a written petition asserting they have reason to believe that a financial institution holding company or financial institution subject to the laws of this State is not complying with the standards of public convenience and advantage set forth in section 253, or that such institution has violated or is violating any provision of this Title or regulation issued pursuant thereto.

[PL 1975, c. 500, §1 (NEW).]

2. Request for rule-making. Any person may petition the superintendent to hold a rule-making proceeding for the purpose of promulgating such rules, regulations or amendments as may be proposed in his petition and may petition for a hearing on the proposed rule, regulation or amendment.

[PL 1977, c. 694, §164 (RPR).]

3. Procedures for requesting hearing. A petition for a hearing pursuant to this section shall be made in accordance with regulations promulgated by the superintendent.

[PL 1977, c. 694, §164 (RPR).]

4. Grant or denial of request. Unless the superintendent shall deem a petition filed pursuant to subsection 1 frivolous or not bona fide, he shall designate the petitioner or petitioners as an interested party and hold a hearing for the purpose set forth in the petition. If the request is a petition for rule-making, within 60 days after receipt of the petition, the superintendent shall either notify the petitioner in writing of its denial and the reasons therefor, or initiate appropriate rule-making proceedings.

[PL 1977, c. 694, §164 (RPR).]

5. Treatment as interested party. A group whose petition is granted by the superintendent shall be treated as a single interested party for all purposes of this chapter, unless otherwise determined by the superintendent.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1977, c. 694, §164 (AMD).

§256. Judicial review of superintendent's action

Any person or organization affected adversely by a rule, regulation, amendment, order or decision on an application promulgated by the superintendent, or affected adversely by the denial of a request for a hearing, may appeal from that action. Judicial review of any final action of the superintendent shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII. [PL 1977, c. 694, §165 (RPR).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1977, c. 694, §165 (RPR).

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