

§14-109. Superintendent powers and duties

1. Investigations and examinations. The superintendent has the authority to conduct investigations and examinations as follows.

A. For purposes of initial licensing, license renewal, license suspension, license revocation or termination or general or specific inquiry or investigation to determine compliance with this Article, the superintendent may access, receive and use any books, accounts, records, files, documents, information or evidence belonging to a licensee or person under examination, including, but not limited to, criminal, civil and administrative history information; personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act, 15 United States Code, Section 1681a; and any other documents, information or evidence the superintendent considers relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

B. For the purposes of investigating violations or complaints arising under this Article or for the purposes of examination, the superintendent may review, investigate or examine any licensee or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The superintendent may direct, subpoena or order the attendance of and examine under oath any person whose testimony may be required about the student education loan or the business or subject matter of any such examination or investigation and may direct, subpoena or order the person to produce books, accounts, records, files and any other documents the superintendent considers relevant to the inquiry. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. In making an examination or investigation authorized by this section, the superintendent may control access to any documents and records of the licensee or person under examination or investigation. The superintendent 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, a person may not remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the superintendent. Unless the superintendent has reasonable grounds to believe the documents or records of the licensee or person 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 its ordinary business affairs. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

D. In order to carry out the purposes of this section, the superintendent may:

- (1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;
- (2) 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 under this section;
- (3) Use, hire, contract for or employ public or privately available analytical systems, methods or software to examine or investigate the licensee or person subject to this Article;
- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this State; and
- (5) Accept audit reports made by an independent certified public accountant for the licensee 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 a report of examination, report of investigation or other writing of the superintendent. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

E. A licensee or person subject to investigation or examination under this section may not knowingly withhold, abstract, remove, mutilate or destroy any books, physical records, computer records or other information relating to information regulated under this Article. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

F. Whenever it appears to the superintendent that a person has violated, is violating or is about to violate a provision of this Article or a rule adopted pursuant to this Article or that a licensee or an owner, director, officer, member, partner, shareholder, trustee, employee or agent of the licensee has committed fraud, engaged in dishonest activities or made a misrepresentation, the superintendent may take action against the person or licensee in accordance with Article 6. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

G. The costs of an investigation conducted by the superintendent must be paid by the licensee or person being investigated. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

H. The superintendent shall adopt rules to implement this Article. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

SECTION HISTORY

PL 2019, c. 431, §2 (NEW). PL 2019, c. 431, §4 (AFF).

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