

# STATE OF NEW YORK

7966

2023-2024 Regular Sessions

## IN ASSEMBLY

August 18, 2023

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Banks

AN ACT to amend the financial services law, in relation to a compliance officer or compliance practitioner license

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The financial services law is amended by adding a new article 9 to read as follows:

### ARTICLE 9

#### COMPLIANCE OFFICER OR COMPLIANCE PRACTITIONER LICENSE

##### Section 901. Definitions.

6 902. Applicability; license.

7 903. License application.

8 904. Written examination.

9 905. Temporary license.

10 906. Fees.

11 907. License term; renewal.

12 908. Continuing education requirements.

13 909. Rules and regulations; authority of the superintendent.

##### § 901. Definitions. For purposes of this article:

15 (a) "compliance" shall mean: (1) drafting, evaluating, applying  
16 compliance or regulatory policies and procedures; (2) designing, assess-  
17 ing or implementing compliance or regulatory controls or systems; and  
18 (3) supervising, surveilling, monitoring, reviewing, testing or report-  
19 ing non-compliance or misconduct. For purposes of this article, compli-  
20 ance tasks, duties and functions shall be performed only by an individ-  
21 ual licensed or otherwise authorized to perform such tasks, duties or  
22 functions under the title of compliance officer, regulatory officer,  
23 compliance supervisor, compliance practitioner, compliance analyst,  
24 compliance consultant, compliance counsel, compliance advisor, regulato-  
25 ry officer, regulatory manager, regulatory supervisor, regulatory prac-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 titioner, regulatory analyst, regulatory consultant, regulatory counsel  
2 or regulatory advisor.

3 (b) "financial industry" and "financial services industry" shall not  
4 include any portion of the financial industry or financial services  
5 industry involving annuities.

6 § 902. Applicability; license. The superintendent may issue a compli-  
7 ance officer or compliance practitioner license to any individual who is  
8 trustworthy and competent to act as a compliance officer or compliance  
9 practitioner in such manner as to safeguard the interests of the people  
10 of this state and who has complied with all of the requirements set  
11 forth in this article. The holder of a license under this section may  
12 act as a compliance officer or compliance practitioner without any other  
13 additional license. Every applicant for a license under this section  
14 shall be twenty-one years of age or over at the time of the issuance of  
15 such license.

16 § 903. License application. (a) Before a compliance officer or compli-  
17 ance practitioner license or renewal thereof shall be issued by the  
18 superintendent, an applicant shall file in the office of the superinten-  
19 dent a written application for such license or renewal thereof. Such  
20 application shall be in the form and contain information that the super-  
21 intendent prescribes.

22 (b) An individual signing such application shall, simultaneous with  
23 such application, submit to the superintendent fingerprints of his or  
24 her two hands recorded in such manner as may be specified by the super-  
25 intendent or his or her authorized representative. Before approving such  
26 application, it shall be the duty of the superintendent or his or her  
27 authorized representative to compare such fingerprints with fingerprints  
28 filed with the division of criminal justice services. Such fingerprints  
29 may also be submitted to the federal bureau of investigation for a  
30 national criminal history record check.

31 (c) No such license shall be issued to any individual who has ever  
32 been convicted of a felony, or of any crime or offense involving fraudu-  
33 lent or dishonest practices nor shall a compliance officer or practi-  
34 tioner licensed under this article be employed if such individual has  
35 ever been convicted of a felony, or of any such crime or offense.

36 (d) Nothing contained in this section shall prevent the employment of  
37 a compliance officer or compliance practitioner or the issuance of a  
38 license to any individual who, subsequent to his or her conviction,  
39 shall have received executive pardon therefor removing such disability,  
40 or who has received a certificate of relief from disabilities or a  
41 certificate of good conduct pursuant to article twenty-three of the  
42 correction law to remove the disability under this article because of  
43 such conviction or previous license revocation occasioned thereby.

44 § 904. Written examination. (a) The superintendent shall in order to  
45 determine the trustworthiness and competency to act as a compliance  
46 officer or compliance practitioner of each individual applicant for such  
47 license, except in the case of a renewal license, require every such  
48 individual to take and pass, to the satisfaction of the superintendent,  
49 a personal written examination. No individual shall be deemed qualified  
50 to take the examination without having demonstrated by evidence satis-  
51 factory to the superintendent the following minimum qualifications: (1)  
52 two years' experience in the financial industry, if the applicant  
53 possesses a bachelors degree from an accredited school of higher educa-  
54 tion, with involvement in regulatory oversight, compliance training or  
55 other experience considered sufficient by the superintendent, or if the  
56 applicant possesses a minimum of five years' practical experience in the

1 financial services industry with an involvement in regulatory oversight,  
2 compliance training or other experience considered sufficient by the  
3 superintendent; and (2) the applicant successfully completed thirty-five  
4 hours of formal training in a course, program of instruction, or semi-  
5 nars approved by the superintendent.

6 (b) The superintendent may prescribe the types of written examinations  
7 according to the kinds of compliance issues the applicant may be  
8 subjected to in the course of his or her duties.

9 (c) The superintendent may, in his or her discretion and on such terms  
10 as he or she prescribes, dispense with such examination in the case of  
11 any applicant who shall previously have held a position of compliance  
12 officer or compliance practitioner for a minimum period of five years  
13 prior to the effective date of this article; provided, further that the  
14 applicant applies within two years following the date of termination of  
15 such license.

16 (d) An individual who at any time served with the armed forces of the  
17 United States, and who immediately prior to entering such military  
18 service had been continuously engaged in bona fide operation in this  
19 state as a compliance officer or compliance practitioner for a period of  
20 five years, may within one year after termination of such military  
21 service file with the superintendent an application in such form as he  
22 or she prescribes, and upon the payment of the requisite license fee be  
23 licensed by the superintendent as a compliance officer or compliance  
24 practitioner without being required to take and pass such examination.

25 (e) The superintendent may exempt from the written examination  
26 requirement an applicant who holds a license or certificate to practice  
27 compliance issued to them upon examination, accredited and administered  
28 by a regulatory compliance accreditation agency in any other state or  
29 political subdivision of the United States or other country provided the  
30 applicant's qualifications met the requirements in this state at the  
31 time such license was issued and that jurisdiction recognizes reciprocity  
32 of the validity of a license issued from the state of New York.

33 (f) The superintendent shall exempt from the written examination  
34 requirement any official or employee of a government unit, agency or  
35 instrumentality who is responsible for performing compliance tasks,  
36 duties or functions as part of his or her official duties with such  
37 governmental unit, agency or instrumentality.

38 § 905. Temporary license. (a) An individual who has had at least five  
39 years' experience as a compliance officer or compliance practitioner in  
40 a financial services industry and has made application for a license as  
41 a compliance officer or compliance practitioner in New York may file  
42 with the superintendent, in such form as the superintendent prescribes,  
43 a written application for a temporary permit to perform the duties as  
44 prescribed herein as a compliance officer or compliance practitioner  
45 during the pendency of the application.

46 (b) Notwithstanding any provision contained in section nine hundred  
47 four of this article, an applicant for a temporary license shall be  
48 required to take and pass a personal written examination in accordance  
49 with subsection (a) of section nine hundred four of this article. If  
50 satisfied that the individual applying for such temporary permit has in  
51 all other respects met the requirements of this article with respect to  
52 the licensing of a compliance officer or compliance practitioner and is  
53 qualified by training and experience as an employee of a financial  
54 service provider or other financial industry related entity as a compli-  
55 ance officer or compliance practitioner, the superintendent shall issue  
56 such temporary permit to be effective for such period of time as the

1 superintendent may specify therein but, in no event, for a period in  
2 excess of one hundred twenty days.

3 (c) The superintendent may summarily suspend or revoke any temporary  
4 permit issued pursuant to this section upon ten days' notice in writing  
5 to the temporary permittee of the superintendent's intention to do so.

6 § 906. Fees. (a) At the time of application for every compliance offi-  
7 cer or compliance practitioner license and for every renewal thereof,  
8 there shall be paid to the superintendent by each applicant a fee of  
9 seventy-five dollars for each year or fraction thereof in which a  
10 license shall be valid. Upon payment of such fee and the superinten-  
11 dent's issuance of such license or renewal thereof, such license shall  
12 also be valid for any one or more of the various licenses issued by the  
13 superintendent for the licensing period or fraction thereof covered by  
14 such payment.

15 (b) No license fee shall be required of any individual who served as a  
16 member of the armed forces of the United States at any time and who  
17 shall have been discharged, under conditions other than dishonorable, in  
18 a current license period, for the duration of such period.

19 (c) Every individual applying to take a written examination shall at  
20 the time of application pay to the superintendent, or at the discretion  
21 of the superintendent, directly to any organization that is under  
22 contract to provide examination services, a non-refundable examination  
23 fee in an amount which is equal to the actual documented administrative  
24 expense. If, however, the applicant should withdraw his or her applica-  
25 tion or the superintendent should deny his or her application before the  
26 license applied for is issued, the superintendent may refund the fee  
27 paid by the applicant for the license applied for, excepting any exam-  
28 ination fees required pursuant to this subsection.

29 (d) The superintendent may issue a replacement for a current license  
30 which has been lost or destroyed. Before such replacement license shall  
31 be issued, there shall be on file in the office of the superintendent a  
32 written application for such replacement license, affirming under penal-  
33 ty of perjury that the original license has been lost or destroyed,  
34 together with a fee of fifteen dollars.

35 § 907. License term; renewal. (a) Every compliance officer license and  
36 compliance practitioner license issued pursuant to this section shall be  
37 for a term expiring on the thirty-first day of December of even numbered  
38 years, and may be renewed for the ensuing two calendar years upon the  
39 filing of an application in conformity with section nine hundred three  
40 of this article. In the case of a license issued to a new applicant,  
41 the superintendent may issue a license or a term of more than two years,  
42 provided however, such term shall not exceed thirty months.

43 (b) If an applicant for a renewal license shall have been filed with  
44 the superintendent by December thirty-first of the year of expiration,  
45 the license sought to be renewed shall continue in full force and effect  
46 either until the issuance by the superintendent of the renewal license  
47 applied for or until five days after the superintendent shall have  
48 refused to issue such renewal license and shall have given notice of  
49 such refusal to the applicant.

50 (c) If such refusal is based on any grounds other than failure to pass  
51 a written examination and if the applicant shall within thirty days  
52 after such notice is given, notify the superintendent of their request  
53 for a hearing on such refusal, the superintendent shall within a reason-  
54 able time after receipt of such notice grant such a hearing, and he or  
55 she may, in his or her discretion, reinstate such license.

1     § 908. Continuing education requirements. (a) The continuing education  
2 requirements set forth in this section shall apply to all resident and  
3 non-resident compliance officer or compliance practitioner licensees,  
4 including any individual previously licensed whose license was not in  
5 effect on the effective date of this article and who subsequently  
6 obtains a license pursuant to the provisions of this article.

7     (b) During each biennial licensing period, a compliance officer or  
8 compliance practitioner licensee shall satisfactorily complete courses  
9 or programs of instruction or attend seminars as may be approved by the  
10 superintendent equivalent to thirty-six credit hours of instruction.

11     (c) A licensee may use accumulated continuing education credits to  
12 meet the requirement so long as the education credits are certified as  
13 such by the superintendent and are approved by a regulatory compliance  
14 accreditation agency or any other licensing authority within the finan-  
15 cial services industry as a commensurate course of study in the finan-  
16 cial industry pertaining to compliance and ethics.

17     (d) The following courses or programs of instruction, if successfully  
18 completed, shall be deemed to meet the superintendent's standards for  
19 continuing education:

20     (1) Courses or programs of instruction or seminars, approved as to  
21 method and content by the superintendent covering portions of principle  
22 branches of the finance industry related to the kinds of subjects  
23 covered by the compliance officer or compliance practitioner license,  
24 including but not limited to compliance regulation, law and practice,  
25 regulatory examinations, regulatory enforcement proceedings, and liti-  
26 gation, provided that:

27     (A) Such courses or programs shall be given by an accredited associ-  
28 ation, degree conferring college or university whose curriculum is  
29 registered with the education department at the time the individual  
30 takes the course, whether such course is given as part of such curric-  
31 ulum or separately, or by any other institution, association, trade  
32 association or employer, which maintains equivalent standards of  
33 instruction and which shall have been approved for such purpose by the  
34 superintendent;

35     (B) The number of credit hours assigned to each course or program of  
36 instruction shall be determined by the superintendent; and

37     (2) Continuing education as required by the state in which a non-resi-  
38 dent resides and maintains an office, provided the superintendent deems  
39 such requirements equivalent to New York continuing education require-  
40 ments; provided, further, that if the state in which the non-resident  
41 licensee resides and maintains an office does not have continuing educa-  
42 tion requirements, or if the superintendent does not deem such require-  
43 ments equivalent, the licensee must satisfy New York's continuing educa-  
44 tion requirements.

45     (e) An individual who teaches an approved course of instruction or who  
46 lectures at an approved seminar, and who is subject to these continuing  
47 education requirements shall be granted the same number of credit hours  
48 as would be granted to an individual taking and successfully completing  
49 such course, seminar or program, provided that such credit hours shall  
50 be credited only once for each approved course during any biennial  
51 licensing period.

52     (f) Every individual subject to the continuing education requirements  
53 set forth in this section, shall furnish in a form satisfactory to the  
54 superintendent written certification attesting to the courses or  
55 programs of instruction taken and successfully completed by such indi-



vidual. Such certification shall be signed by the sponsoring organization or its authorized representative.

(g) (1) An individual who does not meet the applicable continuing education requirements shall not be eligible to renew his or her license. Such individual shall not be eligible to become relicensed during the next biennial licensing period unless and until such individual has demonstrated to the satisfaction of the superintendent that the continuing education requirements for the last biennial licensing period were met.

(2) An individual whose license was not renewed pursuant to paragraph one of this subsection who accumulates sufficient credit hours for the prior licensing period to qualify for relicensing in the biennial licensing period following such non-renewal, may not apply those same credit hours toward the continuing education requirements for the current biennial licensing period.

(h) (1) Any entity eligible to provide continuing education courses, programs of instruction, or seminars shall file for approval by the superintendent on a biennial basis, to conform with its areas of instruction, a provider organization application and a course submission application for each course, program, and seminar.

(2) The provider organization application shall include the names of all instructors to be used during the biennial licensing period, and instructors may be added during such period by notifying the superintendent and paying the appropriate filing fee.

(3) The completed applications shall be returned in a timely manner, as specified by the superintendent with a non-refundable filing fee of two hundred dollars for each organization, fifty dollars for each course, program, and seminar, and fifty dollars for each instructor.

(4) Approval of the application shall be at the discretion of the superintendent.

(i) A licensee shall pay a biennial fee of ten dollars for any license, for continuing education certification filing and recording charges, to the superintendent, or, at the direction of the superintendent, directly to an organization under contract to provide continuing education administrative services.

§ 909. Rules and regulations; authority of the superintendent. (a) In order to carry out the purposes of this article, the superintendent may:

(1) prescribe the types of compliance licenses according to the kinds of compliance duties inherent in the financial services industry; and

(2) issue protocols and procedures for licensing and certifying minimum qualifications for compliance officers, compliance practitioners and other individuals tasked with monitoring, evaluating, testing and reporting non-compliance or misconduct in the financial services industry.

(b) The superintendent shall establish and prescribe regulations that are deemed necessary for the proper and adequate supervision of compliance officers and compliance practitioners.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.