*** § 738. Conditions precedent to issuing a license; procedure where application is denied.** 1. After the filing of an application for a license accompanied by payment of the fee pursuant to paragraph b of subdivision one of section seven hundred thirty-seven of this article, it shall be substantively reviewed. After the application is deemed sufficient and complete, if the superintendent finds that the financial responsibility, including meeting any capital requirements as established pursuant to subdivision three of this section, experience, character and general fitness of the applicant or any person associated with the applicant are such as to command the confidence of the community and to warrant the belief that the business will be conducted honestly, fairly and efficiently within the purposes and intent of this article, the superintendent shall issue the license. For the purpose of this subdivision, the applicant shall be deemed to include all the members of the applicant if it is a partnership or unincorporated association or organization, and all the stockholders, officers and directors of the applicant if it is a corporation.

2. If the superintendent refuses to issue a license, the superintendent shall notify the applicant of the denial and retain the fee paid pursuant to paragraph b of subdivision one of section seven hundred thirty-seven of this article.

3. The superintendent shall promulgate rules and regulations setting capital requirements to ensure the solvency and financial integrity of licensees and their ongoing operations, taking into account the risks, volume of business, complexity, and other relevant factors regarding such licensees. Further, the superintendent may promulgate rules and regulations prescribing a methodology to calculate capital requirements with respect to licensees or categories thereof.

* NB Effective upon the one hundred eightieth day after the promulgation of rules and/or regulations by the department of financial services to effectuate certain provisions (see Ch. 58 of 2025, Part Y, § 13)