

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 26.**  
**BANKS AND OTHER FINANCIAL**  
**INSTITUTIONS.**

**CHAPTER 5B.**  
**ADMINISTRATION OF THE BANKING CODE.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 5B. ADMINISTRATION OF THE BANKING**  
**CODE.**

---

**TABLE OF CONTENTS**

---

**Subchapter I. General Provisions.**

---

- § 26-551.01. Short title.
- § 26-551.02. Definitions.

**Subchapter II. Abolishment of Department of Banking and Financial Institutions;  
Commissioner of the Department of Banking and Financial Institutions.**

---

- § 26-551.03. Administration of the District of Columbia Banking Code.
- § 26-551.04. Appointment of the Commissioner of the Department of Banking and Financial Institutions.[Repealed]
- § 26-551.05. General powers and responsibilities of the Commissioner.

**Subchapter III. Financial Institutions Advisory Board.**

---

- § 26-551.06. Establishment of the Financial Institutions Advisory Board.
- § 26-551.07. Members of the Financial Institutions Advisory Board; compensation.
- § 26-551.08. Organization and operation of the Board.
- § 26-551.09. Weight of advice of the Board.

**Subchapter IV. Investigation, Examination, and Enforcement Powers of the  
Commissioner.**

---

- § 26-551.10. Examinations of financial institutions.
- § 26-551.11. Reports on financial institutions.
- § 26-551.12. Initiation of formal investigation of a financial institution.
- § 26-551.13. Notice of charges; hearing; final order.
- § 26-551.14. Notification of other government agencies.
- § 26-551.15. Modification or rescission of orders.
- § 26-551.16. Cease and desist order.
- § 26-551.17. Temporary cease and desist order.
- § 26-551.18. Confidentiality of information.
- § 26-551.19. Enforcement of Department order, subpoena, or notice of charges.
- § 26-551.20. Judicial review.
- § 26-551.21. Penalty for violation of final order.

**Subchapter V. Generally Prohibited Activities.**

---

- § 26-551.22. Prohibition of fraud.

**Subchapter VI. Miscellaneous Provisions.**

---

- § 26-551.23. Rulemaking.
- § 26-551.24. [Reserved]
- § 26-551.25. Validity of prior law.

# **CHAPTER 5B. ADMINISTRATION OF THE BANKING CODE.**

## **SUBCHAPTER I. GENERAL PROVISIONS.**

### **§ 26-551.01. SHORT TITLE.**

This chapter may be cited as the "General Provisions of the 21st Century Financial Modernization Act of 2000".

(June 9, 2001, D.C. Law 13-308, § 101, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

Law 13-308, the "21st Century Financial Modernization Act of 2000", was introduced in Council and assigned Bill No. 13-867, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 26, 2001, it was assigned Act No. 13-597 and transmitted to both Houses of Congress for its review. D.C. Law 13-308 became effective on June 9, 2001.

### **§ 26-551.02. DEFINITIONS.**

For the purposes of this chapter, the term:

- (1) "Affiliate" means a financial institution holding company under federal law or a subsidiary or service corporation of a financial institution holding company.
- (2) "Appropriate federal financial institutions agency" means the federal agency with statutory authority over the financial institution activities of a financial institution.
- (3) "Bank" means an institution that engages in the business of banking, including a trust company, savings bank, savings and loan association, and credit union.
- (4) "Bank holding company" shall have the same meaning as set forth in section 2(a) of the Bank Holding Company Act of 1956, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. 1841(a)).
- (5) "Business of banking" means activities and transactions involving banking, including: (A) receiving deposits, paying checks, and lending money; (B) activities of a bank which are supervised by the Commissioner; and (C) activities incidental, necessary, or convenient to banking.
- (6) "Capital" means capital deposits, surplus, and undivided earnings.
- (7) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.
- (7A) "Controlling interest" means:
  - (A) More than 50% of the total voting power of all classes of stock of a corporation or more than 50% of the total fair market value of all classes of stock of a corporation;
  - (B) More than 50% of the capital or profits in a partnership, association, or other unincorporated entity; or
  - (C) More than 50% of the beneficial interests in a trust.
- (8) "Credit union" means a financial institution organized as a cooperative association with a limited membership and operating with insurance provided by the National Credit Union Administration.
- (9) "Department" means the Department of Insurance, Securities, and Banking.
- (10) "Director" means a director or trustee of an organization or a person with functions similar to the

functions of a director or trustee.

(11) "District" means the District of Columbia.

(12) "District bank" means a bank chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a bank authorized to do business under the laws of the District.

(13) "District credit union" means a credit union chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a credit union authorized to do business under the laws of the District.

(14) "District of Columbia Banking Code" means the statutory provisions concerning banking and financial institutions which are codified in Title 26 of the District of Columbia Official Code, laws administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(15) "District savings institution" means a savings institution chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a savings institution authorized to do business under the laws of the District.

(16) "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a financial institution, whether or not the person has an official title or receives compensation from the financial institution. The term "executive officer" shall not include a person who may exercise discretion in the performance of duties and functions, including discretion in the making of loans, if the person's exercise of discretion is limited by policy standards adopted by the board of directors of the financial institution and the person does not participate in major policymaking functions of the financial institution. The chair of the board, the president, chief executive officer, chief operating officer, chief financial officer, every executive vice president of a financial institution, and the senior trust officer of a trust company shall be presumed to be executive officers unless the person is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the person does not actually participate in major policymaking functions of the financial institution.

(17) "Federal agency" means an agency of the United States of America.

(18) "Financial institution" means a bank, savings institution, credit union, foreign bank, trust company, non-depository financial institution, or any other person which is regulated, supervised, examined, or licensed by the Department of Insurance, Securities, and Banking; which has applied to be regulated, supervised, examined, or licensed by the Department of Insurance, Securities, and Banking; which is subject to the regulation, supervision, examination, or licensure by the Department of Insurance, Securities, and Banking; or which is engaged in an activity covered by the District of Columbia Banking Code.

(19) "Non-depository financial institution" means a financial institution that is engaged in a regulated activity and that is not a bank or credit union.

(20) "Order" means an approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action.

(21) "Person" means an individual, corporation, trust, joint venture, company, association, firm, partnership, society, joint stock company, pool syndicate, sole proprietorship, unincorporated organization, fiduciary business, or any other similar entity.

(22) "Regulated activity" means an activity authorized and regulated under the District of Columbia Banking Code and under the authority and supervision of the Commissioner.

(23) "Savings institution" means a savings and loan association or savings bank.

(24) "Subsidiary" means a company in which a person owns at least a majority of the shares or equity interest or which the person controls.

(June 9, 2001, D.C. Law 13-308, § 102, 48 DCR 3244; June 11, 2004, D.C. Law 15-166, § 2(a), 51 DCR 2817; June 20, 2012, D.C. Law 19-143, § 201(a), 59 DCR 4069.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 15-166, in pars. (7), (9), and (18), substituted "Department of Insurance, Securities, and Banking" for "Department of Banking and Financial Institutions".

D.C. Law 19-143 added par. (7A).

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2(a) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For Law 13-308, see notes following § 26-551.01.

For Law 15-166, see notes following § 26-131.02.

Law 19-143, the "DISB Fingerprint-Based Background Check Authorization Act of 2012", was introduced in Council and assigned Bill No. 19-198, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on March 6, 2012, and April 17, 2012, respectively. Signed by the Mayor on April 29, 2012, it was assigned Act No. 19-346 and transmitted to both Houses of Congress for its review. D.C. Law 19- 143 became effective on June 20, 2012.

## **SUBCHAPTER II. ABOLISHMENT OF DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS; COMMISSIONER OF THE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS.**

### **§ 26-551.03. ADMINISTRATION OF THE DISTRICT OF COLUMBIA BANKING CODE.**

(a) Repealed.

(b) The Department shall administer the provisions of the District of Columbia Banking Code on behalf of the Mayor.

(c) The Department of Banking and Financial Institutions and the position of the Commissioner of the Department of Banking and Financial Institutions are abolished.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(g) References in any statute, regulation, or rule of the District to the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions shall mean the Commissioner and the Department, respectively.

(h) Repealed.

(June 9, 2001, D.C. Law 13-308, § 103, 48 DCR 3244; Oct. 19, 2002, D.C. Law 14-213, § 18(c), 49 DCR 8140; June 11, 2004, D.C. Law 15-166, § 2(b), 51 DCR 2817.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 14-213, in subsec. (c), validated a previously made technical correction.

D.C. Law 15-166, in the section name line, substituted "Administration of the District of Columbia Banking Code." for "Advisory Neighborhood Commissions-Duties and responsibilities; notice; great weight; access to documents; reports; contributions."; repealed subsecs. (a), (d), (e), (f), and (h); in subsec. (b), deleted "of Banking and Financial Institutions is established and" following "The Department"; rewrote subsec. (c); and, in subsec. (g), deleted the second sentence which had read "All agreements entered into with, and correspondence, invoices, certificates of operation, licenses, orders, memoranda, and regulations issued by, the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions shall continue in effect as if the agreements entered into with, and correspondence, invoices, certificates of operation, licenses, orders, memoranda, and regulations were issued by, the Commissioner or the Department, respectively." Prior to amendment, subsecs. (a), (c), (d), (e), (f), and (h) had read as follows:

"(a) The position of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions are abolished."

"(c) The position of the Commissioner of the Department of Banking and Financial Institutions is established. The Commissioner is the head of the Department of Banking and Financial Institutions and shall administer the Department in accordance with this chapter.

"(d) All powers, duties, responsibilities, and functions of the Superintendent of the Office of Banking and Financial Institutions and of the Office of Banking and Financial Institutions shall be transferred upon June 9, 2001, to the Commissioner and the Department, respectively.

"(e) The Commissioner and the Department shall be the successors in interest to all the rights, obligations, and property of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking

and Financial Institutions, respectively. The Commissioner and the Department shall assume all of the debts, liabilities, and assets of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions, respectively.

"(f) Any pending action or proceeding by or against the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions may be prosecuted to judgment, and the judgment shall bind the Commissioner and the Department. In any pending action or proceeding by or against the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions, the Commissioner and the Department may be substituted in place of the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions, respectively."

"(h) All employees of the Office of Banking and Financial Institutions shall, upon June 9, 2001, become employees of the Department and all rights, benefits, seniority, and compensation of any nature shall continue uninterrupted."

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 802 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

For temporary (90 day) amendment of section, see § 2(b) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

For Law 14-213, see notes following § 26-131.02.

For Law 15-166, see notes following § 26-131.02.

#### *Delegation of Authority*

Delegation of Authority to Administer the Junior Super Savers Club Program, see Mayor's Order 2001-157, October 12, 2001 (48 DCR 9888); Mayor's Order 2001- 158, October 12, 2001 (48 DCR 9890).

#### *Miscellaneous Notes*

Section 802 of D.C. Law 14-28 provides:

"Sec. 802. (a) All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Consumer and Regulatory Affairs for the operation and implementation of An Act To regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, approved February 4, 1913 (37 Stat. 657; D.C. Official Code 26-901 et seq.), Chapter 46 of Title 28 of the District of Columbia Official Code, and Chapter 1 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR 100 et seq.), are hereby transferred to the Department of Banking and Financial Institutions, established by section 103 of the 21st Century Financial Modernization Act of 2000, signed by the Mayor on January 26, 2001 (D.C. Act 13-597; 48 DCR 3244).

"(b) All of the functions assigned and authority delegated to the Department of Consumer and Regulatory Affairs concerning An Act To regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, approved February 4, 1913 (37 Stat. 657; D.C. Official Code 26-901 et seq.), Chapter 46 of Title 28 of the District of Columbia Official Code, and Chapter 1 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR 100 et seq.), are hereby transferred to the Department of Banking and Financial Institutions, established by section 103 of the 21st Century Financial Modernization Act of 2000, signed by the Mayor on January 26, 2001 (D.C. Act 13-597; 48 DCR 3244)."

## **§ 26-551.04. APPOINTMENT OF THE COMMISSIONER OF THE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS.[REPEALED]**

(June 9, 2001, D.C. Law 13-308, § 104, 48 DCR 3244; June 11, 2004, D.C. Law 15-166, § 2(c), 51 DCR 2817.)

#### *HISTORICAL AND STATUTORY NOTES*

#### *Emergency Act Amendments*

For temporary (90 day) repeal of section, see § 2(c) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

For Law 15-166, see notes following § 26-131.02.

## **§ 26-551.05. GENERAL POWERS AND RESPONSIBILITIES OF THE COMMISSIONER.**

(a) The Commissioner shall:

- (1) Administer the District of Columbia Banking Code;
- (2) Promote and maintain a climate and regulatory framework that will encourage financial institutions to organize to do business in the District and contribute to the economic development of the District through the increased availability of capital and credit;
- (3) Expand advantageous financial services to the public in a nondiscriminatory manner;
- (4) Charter, regulate, supervise, and examine banks, savings institutions, credit unions, trust companies, and other financial institutions engaged, or seeking to engage, in the business of banking in the District;
- (5) License, regulate, supervise, and examine non-depository financial institutions engaged in regulated activity in the District;
- (6) Regulate the opening or closing of branches, agencies, offices, or other facilities by financial institutions under the authority and supervision of the Commissioner;
- (7) Approve or disapprove mergers or acquisitions involving District financial institutions or financial institution holding companies;
- (8) Monitor community development commitments of financial institutions chartered, organized, or doing business in the District;
- (9) Approve or disapprove changes in control of financial institutions chartered or organized in the District;
- (10) Approve or disapprove conversions of federally-chartered institutions into District-chartered financial institutions;
- (11) Promulgate regulations, rules, policy statements, interpretations, and opinions necessary or appropriate to carry out the purposes of the District of Columbia Banking Code;
- (12) Assure that all financial institutions engaged in regulated activity in the District, under the supervision or control of the Commissioner, or seeking to do business into the District of Columbia under the District of Columbia Banking Code provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in underserved neighborhoods in the District, help meet the credit and deposit service needs of lower income and minority residents of the District, and expand financial and technical support for small, minority, and women-owned businesses;
- (13) Investigate possible violations of the District of Columbia Banking Code and take any authorized action upon finding a violation;
- (14) Examine or audit a financial institution, bank holding company, affiliate, or subsidiary to assure that the financial institution bank holding company, affiliate, or subsidiary is operating in compliance with the law and in a manner that preserves safety and soundness;
- (15) Request or pursue a restraining order, the appointment of a receiver or conservator, the involuntary dissolution of a corporation, or the freezing or seizure of assets of a person associated with a violation or possible violation of the District of Columbia Banking Code;
- (16) In all respects permitted by law, act as the District government's regulatory authority for financial institutions operating in the District; and
- (17) Recommend to the Mayor annually, or at any other time, any necessary changes to District laws dealing with banking or other areas within the jurisdiction of the Commissioner.

(b) The Commissioner shall be responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the Department or the Commissioner. The Commissioner shall have all powers necessary or convenient for the administration and enforcement of the District of Columbia Banking Code.

(b-1)(1) To determine a financial institution's eligibility to conduct a regulated activity under the District of Columbia Banking Code, the Commissioner may require each organizer, partner, director, officer, and owner with a controlling interest in the financial institution to submit to the Commissioner his or her fingerprints, contact information, and other identifying information, along with written consent to the performance of a criminal history record background check.

(2) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record background information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purposes of facilitating the Commissioner's determination.

(3) The individual or financial institution associated with the regulated activity requiring the Commissioner's determination shall bear the cost of the criminal history record background check and all costs of administering and processing the background check.

(c) The Commissioner may promulgate rules and regulations necessary or appropriate to the execution of the Commissioner's powers, duties, and responsibilities.

(d) The Commissioner may enter into agreements that the Commissioner considers necessary or appropriate to the exercise of his or her powers, including agreements with agencies or instrumentalities of the District, states and territories of the United States of America, or the federal government, for the examination of banks, savings institutions, credit unions, trust companies, and other financial institutions.

(e) The Commissioner, in the performance of the duties and responsibilities of the Department, may enter into contracts with the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, District agencies, other state or federal banking agencies, or any other entity, for those services necessary to carry out the duties and responsibilities of the Commissioner and the Department.

(f) The Commission may establish and modify fees to implement the District of Columbia Banking Code.

(June 9, 2001, D.C. Law 13-308, § 105, 48 DCR 3244; Apr. 13, 2005, D.C. Law 15-354, § 35(b), 52 DCR 2638; June 20, 2012, D.C. Law 19-143, § 201(b), 59 DCR 4069.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 15-354, in subsec. (a)(12), substituted "Commissioner" for "Department of Banking and Financial Institutions".

D.C. Law 19-143 added subsec. (b-1).

##### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

Law 15-354, the "Technical Amendments Act of 2004", was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

For history of Law 19-143, see notes under § 26-551.02.

## **SUBCHAPTER III. FINANCIAL INSTITUTIONS ADVISORY BOARD.**

### **§ 26-551.06. ESTABLISHMENT OF THE FINANCIAL INSTITUTIONS ADVISORY BOARD.**

There is established a Financial Institutions Advisory Board ("Board"). The function of the Board is advisory. The Board shall give the Commissioner sound and impartial advice on the following matters:

- (1) Applications by financial institutions, including international banking institutions, to become chartered or organized under the District of Columbia Banking Code;
- (2) Protection of the interests of depositors and shareholders in financial institutions operating in the District;
- (3) Protection of the interests of the general public related to the operation of financial institutions in the District;
- (4) Development and maintenance of a modern system of financial institutions in the District; and
- (5) Any other financial matter or matter concerning financial institutions operating in, or affecting, the District.

(June 9, 2001, D.C. Law 13-308, § 106, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*



For Law 13-308, see notes following § 26-551.01.

### **§ 26-551.07. MEMBERS OF THE FINANCIAL INSTITUTIONS ADVISORY BOARD; COMPENSATION.**

- (a) The Board shall be comprised of 15 members. The Mayor shall, with the advice and consent of the Council, appoint 13 members to the Board. The Mayor shall appoint to the Board a representative of a general banking industry association for the District; a representative of a general trade or commerce industry association; 2 certified public accountants; and 2 representatives of consumer interests. The Mayor shall appoint members who have a strong interest in the District's financial institutions industry.
- (b) The Commissioner of the Department shall be an ex-officio member of the Board.
- (c) The Commissioner shall be the Chair of the Board.
- (d) The term of an appointed member of the Board shall be 3 years; provided, that of the first members appointed to the Board, 4 members shall be appointed to an initial term to end one year after June 9, 2001, 4 members shall be appointed to an initial term to end 2 years after June 9, 2001, and 5 members shall be appointed to an initial term to end 3 years after June 9, 2001.
- (e) At the end of the term of an appointed member, the appointed member may continue to serve until a successor is confirmed.
- (f) An appointed member of the Board shall be eligible for reappointment.
- (g) A person appointed to complete the term of a departing member of the Board shall serve for the unexpired term of the original appointment and until a successor is confirmed. A person appointed to complete the term of a departing member of the Board may be reappointed to one or more additional terms.
- (h) A member of the Board, before assuming the duties of Board membership, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of the oath shall be filed in the office of the Special Assistant to the Mayor for Boards and Commissions.
- (i) The Mayor may remove a member of the Board for failing to establish or maintain District residency or for misconduct, neglect of duty, or other cause. If a member of the Board is indicted for the commission of a felony, the member shall be automatically suspended from serving on the Board; provided, that upon (1) a final determination of guilt, or (2) a final determination of innocence or other termination of the proceeding without a determination of guilt, the term of the Board member shall be automatically terminated or reinstated, respectively.
- (j) A member of the Board shall not receive compensation, but shall be entitled to reimbursement for travel and incidental expenses.

(June 9, 2001, D.C. Law 13-308, § 107, 48 DCR 3244; June 11, 2004, D.C. Law 15-166, § 2(d), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 35(c), 52 DCR 2638.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 15-166, in subsec. (b), deleted "and the Commissioner of the Department of Insurance and Securities Regulation" following "Department".

D.C. Law 15-354, in subsec. (b), substituted "an ex officio member" for "ex officio members".

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2(d) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

For Law 15-166, see notes following § 26-131.02.

For Law 15-354, see notes following § 26-551.05.

### **§ 26-551.08. ORGANIZATION AND OPERATION OF THE BOARD.**

- (a) The Board shall be organized, shall operate, and may establish committees under such rules and bylaws as the Board establishes.

(b) The Board shall meet at least twice a year and at the call of the Commissioner.

(June 9, 2001, D.C. Law 13-308, § 108, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

**§ 26-551.09. WEIGHT OF ADVICE OF THE BOARD.**

If the Commissioner does not follow advice of the Board which is part of an official action of the Board, the Commissioner shall send to the Board a written statement of the reason for his or her decision not to follow the advice.

(June 9, 2001, D.C. Law 13-308, § 109, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

**SUBCHAPTER IV. INVESTIGATION, EXAMINATION,  
AND ENFORCEMENT POWERS OF THE  
COMMISSIONER.**

**§ 26-551.10. EXAMINATIONS OF FINANCIAL INSTITUTIONS.**

(a) The Commissioner shall hire and commission examiners who shall have the authority to examine any financial institution doing business in the District.

(b) In cooperation with the appropriate federal financial institutions agency, if any, the Commissioner shall examine, or cause to be examined, each financial institution doing business in the District at least once every 18 months. The examination shall analyze and determine whether the financial institution is in a safe and sound condition and operating in a safe and sound manner and shall monitor and determine the financial institution's compliance with District and federal laws, regulations, and rules.

(c) The Commissioner may initiate a special examination of a financial institution whenever the Commissioner considers it necessary to ensure that the financial institution is being operated in a safe and sound manner and in compliance with District and federal laws, regulations, and rules.

(d) The Commissioner shall assess a fee, to be paid by the financial institution, for the expense of the examination under this section. The fee shall be determined as a percentage of the assets of the examined financial institution.

(June 9, 2001, D.C. Law 13-308, § 110, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

**§ 26-551.11. REPORTS ON FINANCIAL INSTITUTIONS.**

(a) Unless otherwise provided by the District of Columbia Banking Code, the Commissioner shall require each financial institution to submit a financial report on a quarterly basis ("quarterly financial report"). The quarterly financial report shall fully describe the financial condition of the reporting financial institution. The Commissioner may accept the most recent quarterly report filed by the financial institution with its appropriate federal financial institutions agency in the place of a quarterly financial report.

(b) A quarterly financial report shall be filed with the Commissioner within 30 days after the end of each calendar quarter.

(c) The Commissioner may require a financial institution to submit a special financial report if the Commissioner determines that a special financial report will assist the Commissioner in ensuring the safe and sound condition and operation of the financial institution.

(d) A special financial report shall be filed with the Commissioner within 30 days of the receipt of a request

for the special financial report from the Commissioner.

(e) A quarterly financial report or a special financial report required under this section shall be signed and certified as accurate by the president or chief executive officer of the reporting financial institution.

(f) The Commissioner may accept a report, examination, or other information from a state or federal agency or regulatory body concerning the activities of a financial institution or its affiliate or subsidiary.

(g) The Commissioner shall prescribe forms to be used to comply with this section.

(June 9, 2001, D.C. Law 13-308, § 111, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

### **§ 26-551.12. INITIATION OF FORMAL INVESTIGATION OF A FINANCIAL INSTITUTION.**

(a) If the Commissioner determines that a financial institution is engaging, has engaged, or may engage in an unsafe or unsound practice in the operation of the financial institution ("unsafe or unsound practice"), or that the financial institutions is engaging, has engaged, or may engage in a violation of a law, regulation, rule, condition, order, or request of the Commissioner, or any written agreement entered into with the Commissioner ("violation"), the Commissioner may conduct an investigation of the financial institution and issue and serve upon the institution a notice of charges.

(b) The Commissioner may request that an investigation, or portion of an investigation, be conducted by a District, state, or federal law enforcement agency.

(June 9, 2001, D.C. Law 13-308, § 112, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

### **§ 26-551.13. NOTICE OF CHARGES; HEARING; FINAL ORDER.**

(a) The Commissioner shall formally initiate an investigation of a violation or an unsafe or unsound practice by issuing a notice of charges. The notice of charges shall contain a statement of facts describing the alleged violation or unsafe or unsound practice that the financial institution or its subsidiary or affiliate has engaged, or may engage, in.

(b) The notice of charges shall set a date, time, and place at which a hearing shall be held to determine whether the alleged violation or unsafe or unsound practice has occurred, or may occur, and whether a cease and desist order should be issued against the financial institution, or its subsidiary or affiliate. The hearing date shall be no earlier than 30 days, and no later than 60 days, after the date of service of the notice of charges; provided, that the hearing date may be set earlier or later if it is determined under rules issued by the Commissioner that there are emergency circumstances or that it is impractical to hold the hearing during the prescribed period.

(c) A hearing under this section shall be held in the District, unless otherwise specified by the Commissioner, and shall be held before the Commissioner or a person that the Commissioner appoints.

(d) The Commissioner may issue a subpoena to compel the attendance of a witness at a hearing or to compel the production of any document, paper, book, record, or other evidence for the investigation.

(e) The Commissioner or the Commissioner's appointee may administer an oath and take the testimony of any person under oath in the conduct of the investigation.

(f) A hearing under this section shall be conducted in accordance with Chapter 5 of Title 2.

(g) A hearing conducted under this section shall be open to the public, unless the Commissioner determines that it is necessary or appropriate to hold a private hearing to protect the public interest.

(h) Within 90 days after the conclusion of a hearing under this section, the Commissioner shall issue a final decision and order, in writing, and shall serve the final decision and order on each party to the investigatory proceeding.

(June 9, 2001, D.C. Law 13-308, § 113, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

For Law 13-308, see notes following § 26-551.01.

#### **§ 26-551.14. NOTIFICATION OF OTHER GOVERNMENT AGENCIES.**

(a) If the Commissioner finds in the Commissioner's final order that a violation of the District of Columbia Banking Code has occurred or is occurring, the Commissioner shall refer the matter to the Corporation Counsel or to the United States Attorney for appropriate action.

(b) If the Commissioner determines that a national bank, federally chartered savings and loan, federally chartered savings bank, or federally chartered credit union has acted in violation of the laws of the District or has engaged in an unsafe or unsound conduct, the Commission shall notify the appropriate federal financial institutions agency and the United States Attorney General.

(June 9, 2001, D.C. Law 13-308, § 114, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

#### **§ 26-551.15. MODIFICATION OR RESCISSION OF ORDERS.**

The Commissioner may modify or rescind a final order issued under § 26- 551.13 after receiving and considering a request from a financial institution, a financial institution's affiliate or subsidiary, or any other party to the investigatory proceeding, if the Commissioner determines that:

- (1) It is in the public interest to modify or rescind the final order; and
- (2) It is reasonable to believe that the financial institution, the financial institution's affiliate or subsidiary, or the other party to the investigatory proceeding will engage in safe and sound practices and will comply with the District of Columbia Banking Code.

(June 9, 2001, D.C. Law 13-308, § 115, 48 DCR 3244.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

#### **§ 26-551.16. CEASE AND DESIST ORDER.**

(a) The Commissioner may issue and serve upon the financial institution or its affiliate or subsidiary a final cease and desist order if:

- (1) The party served with the notice of charges fails to appear at the hearing called under § 26-551.13; or
- (2) The record of the hearing held under § 26-551.13 supports a finding that the violation or unsafe and unsound practice specified in the notice of charges has occurred or reasonably likely to occur.

(b) A final cease and desist order may require that a financial institution or a director, officer, trustee, employee, agent, affiliate, or subsidiary of the financial institution:

- (1) Cease and desist from the violation or unsafe or unsound practice or from any activity that will or may result in a violation or unsafe or unsound practice;
- (2) Take affirmative action to correct the violation, unsafe or unsound practice, or condition resulting from the violation or unsafe or unsound practice or to avoid a violation or unsafe or unsound practice; or
- (3) Provide indemnification, reimbursement, restitution, or any other relief that the Commissioner determines is appropriate.

(c) A final cease and desist order shall become effective 30 days after the service of the order upon the financial institution or its affiliate or subsidiary; provided, that a final cease and desist order which has been issued upon the consent of the Commissioner and a financial institution or other parties shall become effective upon the date specified in the consent order.

(d) A final cease and desist order shall remain in effect until it is stayed, modified, terminated, or set aside by the Commissioner or a court.

(e) In addition to, or instead of, issuing a final cease and desist order, the Commissioner may enter into an

informal enforcement action, such as a supervisory agreement or memorandum of understanding, with the financial institution.

(June 9, 2001, D.C. Law 13-308, § 116, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

**§ 26-551.17. TEMPORARY CEASE AND DESIST ORDER.**

(a) Along with a notice of charges, or after the issuance of a notice of charges, the Commissioner may issue a temporary cease and desist order.

(b) The Commissioner may issue a temporary cease and desist order if the Commissioner determines that a violation or unsafe or unsound practice is likely to cause:

- (1) Insolvency of the financial institution;
- (2) Substantial dissipation of assets or earnings of the financial institution;
- (3) Serious weakening of the condition of the financial institution;
- (4) Serious prejudice to the interests of the depositors or investors of the financial institution or to the general public; or
- (5) The inability to determine, because of incomplete or inaccurate records, the financial condition of a financial institution or the inability to determine the details or purpose of a transaction that may have a material effect on the financial condition of a financial institution.

(c) The temporary cease and desist order may require a financial institution or its affiliate or subsidiary to immediately cease and desist from a violation or unsafe or unsound practice and to take affirmative action to prevent an occurrence set forth in paragraphs (1) through (5) of subsection (b) of this section pending completion of investigatory proceedings under this chapter. If a notice of charges issued under § 26-551.13 states that the books and records of a financial institution are so incomplete or inaccurate that the Commissioner is unable to determine the financial condition of the institution or to ascertain the details or purpose of a transaction, the Commissioner may issue a temporary cease and desist order that requires the financial institution to cease an activity or practice which caused or contributed to the incomplete or inaccurate state of the books or records or take affirmative action to restore the books or records to a complete and accurate state.

(d) A temporary cease and desist order shall be effective upon service.

(e) A temporary cease and desist order shall remain in effect until:

- (1) Set aside, limited, or suspended by a court;
- (2) The completion of the investigatory proceeding initiated by the notice of charges, if the Commissioner dismisses the notice of charges;
- (3) An order by the Commissioner revoking the temporary cease and desist order; or
- (4) The issuance of a final cease and desist order.

(June 9, 2001, D.C. Law 13-308, § 117, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

**§ 26-551.18. CONFIDENTIALITY OF INFORMATION.**

(a) Except as provided in subsection (b) of this section or as otherwise required by law, the Department and the employees, agents, and contractors of the Departments shall not disclose:

- (1) The contents of a report or examination of a person by the Department, except as the Commissioner determines is appropriate to disclose in the final order issued under § 26-551.13;
- (2) Information furnished to, or obtained by, the Department, the disclosure of which the Commissioner determines could endanger the safety and soundness of a financial institution;
- (3) Personal financial information furnished to, or obtained by the Department, except as the Commissioner determines is appropriate to disclose in the final order issued under § 26-551.13.

(b) Notwithstanding subsection (a) of this section, the contents of a report or examination of a person or

information, including personal information, furnished to or obtained by the Department may be disclosed:

- (1) To employees, agents, and contractors of the Department in the performance of the duties of the employee, agent, or contractor;
- (2) To the directors, officers, and other persons authorized by the board of directors of a financial institution or other entity, if the financial institution or other entity furnished the information to the Department;
- (3) To authorized and appropriate government agencies; or
- (4) In accordance with a court order.

(June 9, 2001, D.C. Law 13-308, § 118, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

## **§ 26-551.19. ENFORCEMENT OF DEPARTMENT ORDER, SUBPOENA, OR NOTICE OF CHARGES.**

The Commissioner may, through the Corporation Counsel, apply to the Superior Court of the District of Columbia for the enforcement of an effective and outstanding notice of charges, subpoena, final cease and desist order, or temporary cease and desist order. The Superior Court of the District of Columbia may order compliance with the notice of charges, subpoena, final cease and desist order, or temporary cease and desist order.

(June 9, 2001, D.C. Law 13-308, § 119, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

## **§ 26-551.20. JUDICIAL REVIEW.**

(a) Within 10 days after service of a temporary cease and desist order, a financial institution or other party named in the temporary cease and desist order may apply to the Superior Court of the District of Columbia for an injunction to set aside, limit, or suspend the order.

(b) A final order or a final cease and desist order issued under this chapter shall be reviewable by the Superior Court of the District of Columbia. The review of the final order or the final cease and desist order shall be confined to the record of the hearing conducted under § 26-551.13 and to a determination of whether the Commissioner's order was arbitrary or capricious.

(June 9, 2001, D.C. Law 13-308, § 120, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

## **§ 26-551.21. PENALTY FOR VIOLATION OF FINAL ORDER.**

A person who violates an outstanding and effective final order shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$5,000, imprisoned not more than one year, or both.

(June 9, 2001, D.C. Law 13-308, § 121, 48 DCR 3244.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

# **SUBCHAPTER V. GENERALLY PROHIBITED ACTIVITIES.**

## **§ 26-551.22. PROHIBITION OF FRAUD.**

A financial institution shall not engage in a fraudulent activity or an act against the public interest.

(June 9, 2001, D.C. Law 13-308, § 122, 48 DCR 3244.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

## **SUBCHAPTER VI. MISCELLANEOUS PROVISIONS.**

## **§ 26-551.23. RULEMAKING.**

The Commissioner may issue rules implementing this chapter, pursuant to subchapter I of Chapter 5 of Title 2.

(June 9, 2001, D.C. Law 13-308, § 123, 48 DCR 3244.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.

## **§ 26-551.24. [RESERVED]**

## **§ 26-551.25. VALIDITY OF PRIOR LAW.**

A decision, order, interpretation, agreement, policy statement, opinion, regulation or rule ("decision") issued and in effect under a law repealed by this chapter or section 124 of the 21st Century Financial Modernization Act of 2000, effective June 9, 2001 (D.C. Law 13-308; 48 DCR 3244), shall continue to be valid until the Commissioner amends or withdraws the decision.

(June 9, 2001, D.C. Law 13-308, § 125, 48 DCR 3244.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 13-308, see notes following § 26-551.01.