

3727--A

2009-2010 Regular Sessions

I N S E N A T E

March 30, 2009

Introduced by Sen. FOLEY -- (at request of the Banking Department) --
read twice and ordered printed, and when printed to be committed to
the Committee on Banks -- committee discharged, bill amended, ordered
reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to licensed lenders,
licensed cashers of checks, sales finance companies, premium finance
companies, budget planners and transmitters of money; and to repeal
certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 340 of the banking law, as amended by chapter 22 of
2 the laws of 1990, is amended to read as follows:
3 S 340. Doing business without license prohibited. No person [or other
4 entity] shall engage in the business of making loans IN NEW YORK in the
5 principal amount of [twenty-five] FIFTY thousand dollars or less for any
6 loan to an individual for personal, family, household, or investment
7 purposes and in a principal amount of [fifty] ONE HUNDRED thousand
8 dollars or less for business and commercial [loans, and charge, contract
9 for, or receive a greater rate of interest than the lender would be
10 permitted by law to charge if he were not a licensee hereunder except as
11 authorized by this article and] PURPOSES without first obtaining a
12 license from the superintendent.
13 For the purposes of this section, a person [or entity] shall be
14 considered as engaging in the business of making loans in New York, and
15 subject to the licensing and other requirements of this article, if it
16 solicits loans in [the amounts prescribed by this section within] this
17 state BY ANY MEANS, INCLUDING BUT NOT LIMITED TO, MAIL, ELECTRONIC MAIL,
18 TELEPHONE, RADIO, TELEVISION, THE INTERNET OR ANY OTHER ELECTRONIC
19 MEANS, and, in connection with such solicitation, makes loans to indi-
20 viduals then resident OR LOCATED in this state OR, IN THE CASE OF LOANS
21 FOR BUSINESS OR COMMERCIAL PURPOSES, HAVING A PLACE OF BUSINESS WITHIN

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

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1 THIS STATE, except that no person [or entity] shall be considered as
2 engaging in the business of making loans in this state on the basis of
3 [isolated, incidental or occasional] transactions which otherwise meet
4 the requirements of this section IF THE NUMBER OF LOANS MADE IN ANY ONE
5 YEAR BY ANY SUCH PERSON IS NOT MORE THAN FIVE LOANS AND THE AGGREGATE
6 AMOUNT OF LOANS OUTSTANDING AT ANY ONE TIME DOES NOT EXCEED ONE HUNDRED
7 THOUSAND DOLLARS.

8 Nothing in this article shall apply to licensed collateral loan
9 brokers.

10 S 2. The banking law is amended by adding a new section 340-a to read
11 as follows:

12 S 340-A. DEFINITIONS. WHEN USED IN THIS ARTICLE: 1. THE TERM "PERSON"
13 MEANS ANY INDIVIDUAL OR LEGAL ENTITY, INCLUDING ANY CORPORATION, PART-
14 NERSHIP, ASSOCIATION OR LIMITED LIABILITY COMPANY.

15 2. THE TERM "CONTROL" MEANS THE POSSESSION, DIRECTLY OR INDIRECTLY, OF
16 THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLI-
17 CIES OF A PERSON, WHETHER BY MEANS OF THE OWNERSHIP OF THE VOTING STOCK
18 OR EQUITY INTERESTS OF SUCH PERSON OR OF ONE OR MORE PERSONS CONTROLLING
19 SUCH PERSON, BY MEANS OF A CONTRACTUAL ARRANGEMENT, OR OTHERWISE.
20 CONTROL SHALL BE PRESUMED TO EXIST IF ANY PERSON DIRECTLY OR INDIRECTLY
21 OWNS, CONTROLS OR HOLDS WITH THE POWER TO VOTE TEN PERCENT OR MORE OF
22 THE VOTING STOCK OR EQUITY INTERESTS OF A LICENSEE OR OF ANY OTHER ENTI-
23 TY THAT DIRECTLY OR INDIRECTLY CONTROLS SUCH PERSON.

24 S 3. Subdivisions 3 and 5 of section 341 of the banking law, as
25 amended by chapter 494 of the laws of 1998, are amended to read as
26 follows:

27 3. In addition to the investigation fee [and annual license fee] every
28 licensee hereunder shall pay to the superintendent the sums provided to
29 be paid under the provisions of section seventeen of [the banking law]
30 THIS CHAPTER.

31 5. The applicant shall also prove, in form satisfactory to the super-
32 intendent, that the applicant has available for the operation of such
33 business [at the location or locations specified in the application
34 liquid assets] NET WORTH of at least fifty thousand dollars OR SUCH
35 AMOUNT AS MAY BE DETERMINED BY THE SUPERINTENDENT. This amount shall be
36 maintained for the period within which the licensee makes loans in the
37 amounts prescribed in section three hundred forty of this article [at
38 such location].

39 S 4. Section 342 of the banking law, as amended by chapter 494 of the
40 laws of 1998, is amended to read as follows:

41 S 342. Conditions precedent to issuing license; procedure where appli-
42 cation denied. Upon the filing of such application and the payment of
43 such fees, if the superintendent shall find that the financial responsi-
44 bility, experience, character, and general fitness of the applicant, and
45 of the members thereof if the applicant be a partnership [or], associ-
46 ation OR LIMITED LIABILITY COMPANY, and of the officers and directors
47 thereof if the applicant be a corporation, are such as to command the
48 confidence of the community and to warrant belief that the business will
49 be operated honestly, fairly, and efficiently within the purposes of
50 this article, and if the superintendent shall find that the applicant
51 has available for the operation of such business [at each specified
52 location liquid assets of at least fifty thousand dollars] SUCH AMOUNT
53 AS CALCULATED IN ACCORDANCE WITH SUBDIVISION FIVE OF SECTION THREE
54 HUNDRED FORTY-ONE OF THIS ARTICLE, the superintendent shall thereupon
55 execute a master license, and if applicable one or more supplemental
56 licenses, to make loans in accordance with the provisions of this arti-

1 cle at the location or locations specified in the said application. The
2 superintendent shall transmit one copy of such license or licenses to
3 the applicant and file the same in the office of the department. Each
4 such license shall remain in full force and effect until it is surren-
5 dered by the licensee or [revoked or] suspended, REVOKED OR TERMINATED
6 as [hereinafter] HEREIN provided; if the superintendent shall not so
7 find, a master license shall not be issued and the superintendent shall
8 notify the applicant of the denial. If an application is denied or with-
9 drawn the superintendent shall [return to the applicant the sum paid by
10 the applicant as a license fee, retaining] RETAIN the investigation fee
11 to cover the costs of investigating the application. The superintendent
12 shall approve or deny every application for a master license hereunder
13 within ninety days from the [filing thereof with the said fees] DATE THE
14 APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

15 S 5. Subdivision 1 of section 343 of the banking law, as amended by
16 chapter 494 of the laws of 1998, is amended to read as follows:

17 1. A license shall state the address at which the business is to be
18 conducted and shall state fully the name of the licensee, and if the
19 licensee is a partnership [or], association OR LIMITED LIABILITY
20 COMPANY, the names of the members thereof, and if a corporation, the
21 date and place of its incorporation. A master license shall be kept
22 conspicuously posted in the principal place of business of the licensee
23 and a supplemental license shall be conspicuously posted at the location
24 identified in the license. No master or supplemental license shall be
25 transferable or assignable.

26 S 6. The second undesignated paragraph of subdivision 1 of section 345
27 of the banking law, as amended by chapter 22 of the laws of 1990, is
28 amended to read as follows:

29 [As used in this subdivision, (a) the term "person" includes an indi-
30 vidual, partnership, corporation, association or any other organization
31 and (b) the term "control" means the possession, directly or indirectly,
32 of the power to direct or cause the direction of the management and
33 policies of a person, whether by means of the ownership of the voting
34 stock or equity interests of such person or of one or more persons
35 controlling such person, by means of a contractual arrangement, or
36 otherwise. Control shall be presumed to exist if any person directly or
37 indirectly owns, controls or holds with the power to vote ten per centum
38 or more of the voting stock or equity interests of the person desirous
39 of continuing to maintain and operate a licensee's place of business or
40 of any entity which directly or indirectly controls such person.] The
41 superintendent may, upon the application of a licensee or any [such]
42 person [or entity], determine whether or not the ownership, control or
43 holding of such voting stock or equity interests constitutes or would
44 constitute control for purposes of this subdivision.

45 S 7. Section 347 of the banking law, as amended by chapter 22 of the
46 laws of 1990, is amended to read as follows:

47 S 347. Grounds for [revocation or] suspension, REVOCATION OR TERMI-
48 NATION of license; procedure. [The] 1. IN ADDITION TO THE AUTHORITY SET
49 FORTH IN SUBDIVISION TWO OF THIS SECTION, THE superintendent may suspend
50 or revoke any license issued [hereunder] UNDER THIS ARTICLE if, AFTER
51 NOTICE AND A HEARING the superintendent shall find that:

52 (a) The licensee has failed to pay any sum of money lawfully demanded
53 by the superintendent or to comply with any demand, ruling, or require-
54 ment of the superintendent;

55 (b) The licensee has violated any provisions of this article, the act
56 of congress entitled "Truth in Lending Act" and the regulations there-

under, as such act and regulations may from time to time be amended, or of any rule or regulation lawfully made by the superintendent;

(c) Any fact or condition exists which, if it had existed at the time of the original application for such license, [clearly] would have warranted the superintendent in refusing originally to issue such license;

(d) The licensee has engaged in the business of a sales finance company and has done or failed to do any act, except the failure to pay the fees required, which would be grounds for the suspension or revocation of its license pursuant to section four hundred ninety-five of this chapter were it required to obtain such a license.

THE SUPERINTENDENT MAY REVOKE OR SUSPEND ONLY THE PARTICULAR LICENSE WITH RESPECT TO WHICH GROUNDS FOR REVOCATION OR SUSPENSION MAY OCCUR OR EXIST, OR, IF THE SUPERINTENDENT SHALL FIND THAT SUCH GROUNDS FOR REVOCATION OR SUSPENSION ARE OF GENERAL APPLICATION TO ALL OFFICES, OR TO MORE THAN ONE OFFICE, OPERATED BY SUCH LICENSEE, THE SUPERINTENDENT SHALL REVOKE OR SUSPEND ALL OF THE LICENSES ISSUED TO SUCH LICENSEE OR SUCH NUMBER OF LICENSES AS SUCH GROUNDS APPLY TO, AS THE CASE MAY BE.

2. (A) The superintendent may [on] FOR good cause [shown], without notice or A hearing, [suspend] ISSUE AN ORDER SUSPENDING any license ISSUED PURSUANT TO THIS ARTICLE for a period not exceeding [thirty] NINETY days, pending investigation.

[The superintendent may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if the superintendent shall find that such grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by such licensee, the superintendent shall revoke or suspend all of the licenses issued to such licensee or such number of licenses as such grounds apply to, as the case may be.] "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO MAKE ANY PAYMENTS AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE:

(I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; OR

(II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; OR

(III) UPON NOTICE AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY.

3. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO THIS ARTICLE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE

DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. Any licensee may surrender any license by delivering to the superintendent written notice that the licensee thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

5. No revocation [or], suspension, TERMINATION or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

6. Every license issued hereunder shall remain in force and effect until it shall have been surrendered, revoked, TERMINATED, or suspended in accordance with the provisions of this article, but the superintendent shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked OR TERMINATED if no fact or condition then exists which clearly would have warranted the superintendent in refusing originally to issue such license under this article.

7. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, the superintendent shall execute a written order to that effect. The superintendent shall file one copy of such order in the office of the department and serve a copy upon the licensee, which order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized by this section must be commenced within thirty days from the date of such order of suspension or revocation.

8. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A LICENSED LENDER IN THIS STATE.

S 8. Section 356 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

S 356. [Restrictions on certain loans by non-licensees, interests, other charges; loans] LOANS made outside this state. [No person or other entity, other than a licensee under this article, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the person or other entity would be permitted by law to charge if it were not a licensee hereunder upon a loan not exceeding the maximum amounts prescribed in section three hundred forty of this article.]

The foregoing prohibition shall apply to any person or other entity who or which, by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by the laws of this state for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.]

1 Any loan in an amount not exceeding the maximum amounts prescribed in
2 section three hundred forty of this article for which a greater rate of
3 interest, consideration, or charges than is permitted by the laws of
4 this state has been charged, contracted for, or received, wherever made,
5 shall not be enforced in this state and every person or other entity
6 participating therein in this state shall be subject to the provisions
7 of this article. An action to enforce any such loan made in any other
8 state to a person then a resident of that state, who now resides in this
9 state may be maintained in this state if the amount of interest,
10 discount, consideration or other charge for such loan, demanded to be
11 paid in such action, does not exceed that permitted to a licensee by
12 section three hundred fifty-one of this article for a loan of the same
13 amount repayable in the same manner.

14 S 9. Subdivision 1 of section 366 of the banking law, as amended by
15 chapter 849 of the laws of 1964, is amended and a new subdivision 4 is
16 added to read as follows:

17 1. The term "licensed casher of checks" means any [individual, part-
18 nership, unincorporated association or corporation] PERSON duly licensed
19 by the superintendent of banks to engage in business pursuant to the
20 provisions of this article.

21 4. THE TERM "PERSON" MEANS ANY INDIVIDUAL OR OTHER LEGAL ENTITY,
22 INCLUDING ANY CORPORATION, PARTNERSHIP, ASSOCIATION OR LIMITED LIABILITY
23 COMPANY.

24 S 10. Subdivisions 1, 2 and 4 of section 367 of the banking law,
25 subdivisions 1 and 2 as amended by chapter 151 of the laws of 1945 and
26 subdivision 4 as amended by chapter 96 of the laws of 1981, are amended
27 to read as follows:

28 1. No person[, partnership, association or corporation] shall engage
29 in the business of cashing checks, drafts or money orders for a consid-
30 eration without first obtaining a license from the superintendent.

31 2. Application for such license shall be in writing, under oath, and
32 in the form prescribed by the superintendent, and shall contain the
33 name, and the address both of the residence and place of business, of
34 the applicant, and if the applicant is a co-partnership [or], associ-
35 ation, OR LIMITED LIABILITY COMPANY of every member thereof, and if a
36 corporation, of each officer and director thereof; also, if the business
37 is to be conducted at a specific address, the address at which the busi-
38 ness is to be conducted, and if the business is to be conducted from a
39 mobile unit, the New York state registration number or other identifica-
40 tion of such mobile unit and the area in which the applicant proposes to
41 operate such mobile unit; and also such further information as the
42 superintendent may require.

43 4. Every applicant shall prove, in form satisfactory to the super-
44 intendent that he, SHE or it has available for the operation of such
45 business, for each location and for each mobile unit specified in the
46 application, liquid assets of at least ten thousand dollars, and every
47 licensee shall continuously maintain for the operation of such business
48 for each location and for each mobile unit liquid assets of at least ten
49 thousand dollars. Notwithstanding the foregoing provisions of this
50 subdivision, the superintendent, upon application by an applicant and
51 for good cause shown, may permit a reduction from ten thousand dollars
52 to not less than five thousand dollars of minimum liquid assets required
53 for each location AND SUCH AMOUNT AS HE OR SHE SHALL DEEM APPROPRIATE
54 FOR EACH LIMITED STATION.

55 S 11. Subdivision 1 of section 369 of the banking law, as amended by
56 chapter 233 of the laws of 2005, is amended to read as follows:

1 1. If the superintendent shall find that:

2 (I) the financial responsibility, experience, character, and general
3 fitness of the applicant, and of the members thereof if the applicant be
4 a co-partnership [or], association OR LIMITED LIABILITY COMPANY, and of
5 the officers and directors thereof if the applicant be a corporation,
6 are such as to command the confidence of the community and to warrant
7 belief that the business will be operated honestly, fairly, and effi-
8 ciently within the purposes of this article, and [if the superintendent
9 shall find that]

10 (II) the granting of such application will promote the convenience and
11 advantage of the area in which such business is to be conducted, and [if
12 the superintendent shall find that]

13 (III) the applicant has available for the operation of such business
14 for each location and for each mobile unit specified in the application
15 liquid assets of at least ten thousand dollars, PROVIDED THAT, THE
16 SUPERINTENDENT, UPON APPLICATION BY AN APPLICANT AND FOR GOOD CAUSE
17 SHOWN, MAY PERMIT A REDUCTION FROM TEN THOUSAND DOLLARS TO NOT LESS THAN
18 FIVE THOUSAND DOLLARS OF MINIMUM LIQUID ASSETS REQUIRED FOR EACH
19 LOCATION AND A REDUCTION TO SUCH AMOUNT AS THE SUPERINTENDENT SHALL DEEM
20 APPROPRIATE FOR EACH LIMITED STATION,

21 (IV) THE PRIMARY BUSINESS OF THE LICENSEE, AT THE LOCATION TO BE
22 LICENSED, SHALL BE FINANCIAL SERVICES, AND

23 (V) THE APPLICANT'S PROPOSED OFFICES COMPLY WITH SUBDIVISION ONE-A OF
24 THIS SECTION,

25 the superintendent shall thereupon execute a license in duplicate to
26 permit the cashing of checks, drafts and money orders in accordance with
27 the provisions of this article at the location or in the area specified
28 in such application. In finding whether the application will promote the
29 convenience and advantage to the public, the superintendent shall deter-
30 mine whether there is a community need for a new licensee in the
31 proposed area to be served. THE SUPERINTENDENT SHALL TRANSMIT ONE COPY
32 OF SUCH LICENSE TO THE APPLICANT AND FILE ANOTHER IN THE OFFICE OF THE
33 DEPARTMENT.

34 1-A. No license shall be issued to an applicant for a license, at a
35 location to be licensed which is closer than one thousand five hundred
36 eighty-four feet (three-tenths of a mile) from an existing licensee,
37 MEASURED ON A STRAIGHT LINE ALONG THE STREET BETWEEN THE NEAREST POINT
38 OF THE STORE FRONTS OF THE CHECK CASHING FACILITIES, except:

39 (I) with the written consent of such existing licensee [or],

40 (II) pursuant to subdivision three of section three hundred seventy of
41 this article, subject to any restriction or condition as the superinten-
42 dent may promulgate by regulation[; provided, however],

43 (iii) the superintendent may permit a location to be licensed that is
44 closer than three-tenths of a mile from an existing licensee provided
45 THAT (A) such applicant engages in the cashing of checks, drafts or
46 money orders only for payees of such checks, drafts or money orders that
47 are other than natural persons at the location to be licensed and (B)
48 such applicant was engaged in the cashing of such checks, drafts or
49 money orders for payees that are other than natural persons at such
50 location on or before the fourteenth day of July, two thousand four, and
51 [provided further that upon licensing any such location by the super-
52 intendent,] (C) SUCH LICENSE SHALL BEAR A LEGEND STATING THAT SUCH
53 LOCATION IS RESTRICTED TO THE CASHING OF CHECKS, DRAFTS OR MONEY ORDERS
54 ONLY FOR PAYEES THAT ARE OTHER THAN NATURAL PERSONS, AND (D) AFTER THE
55 SUPERINTENDENT LICENSES SUCH LOCATION, such license as it pertains sole-
56 ly to such location shall not be affected thereafter by any change of

1 control of such license pursuant to section three hundred seventy-a of
2 this article, [provided that] AS LONG AS the licensee continues there-
3 after to engage at that location in the cashing of checks, drafts or
4 money orders only for payees that are other than natural persons [and
5 provided further that such license shall bear a legend stating that such
6 location is restricted to the cashing of checks, drafts or money orders
7 only for payees that are other than natural persons]. The three-tenths
8 of a mile distance requirement as set forth in this [section] SUBDIVI-
9 SION shall not apply in cases where the existing licensee is a
10 restricted location as authorized in the preceding sentence, or is any
11 other licensed location that engages solely in the cashing of checks,
12 drafts or money orders only for payees that are other than natural
13 persons. [For purposes of this section, such distance shall be measured
14 on a straight line along the street between the nearest point of the
15 store fronts of the check cashing facilities. The primary business of
16 the licensee, at the location to be licensed, shall be financial
17 services. The superintendent shall transmit one copy of such license to
18 the applicant and file another in the office of the department. Notwith-
19 standing the foregoing provisions of this subdivision, the superinten-
20 dent, upon application by an applicant and for good cause shown, may
21 permit a reduction from ten thousand dollars to not less than five thou-
22 sand dollars of minimum liquid assets required for each location.]

23 S 12. Subdivision 2 of section 370-a of the banking law, as added by
24 chapter 142 of the laws of 1992, is amended to read as follows:

25 2. The superintendent shall approve or disapprove the proposed change
26 of control of a licensee in accordance with the provisions of subdivi-
27 sions one and six of section three hundred sixty-nine of this article.
28 The superintendent shall approve or disapprove the application in writ-
29 ing within ninety days [after the date the application is filed with the
30 superintendent] FROM THE DATE THE APPLICATION IS DEEMED COMPLETE BY THE
31 SUPERINTENDENT.

32 S 13. Section 373 of the banking law, as amended by chapter 485 of
33 the laws of 1947, subdivision 1 as amended by chapter 432 of the laws of
34 2004, subdivision 2 as amended by chapter 132 of the laws of 1969,
35 subdivision 3 as amended by chapter 310 of the laws of 1962 and subdivi-
36 sion 5 as added by chapter 235 of the laws of 2008, is amended to read
37 as follows:

38 S 373. Acts prohibited; suspension or revocation of license; penal-
39 ties. 1. (A) No licensee shall engage in the business of making loans
40 of money, credit, goods or things or discounting of notes, bills of
41 exchange, checks, or other evidences of debt pursuant to the provisions
42 of article nine of this chapter, nor shall a loan business or the nego-
43 tiation of loans or the discounting of notes, bills of exchange, checks
44 or other evidences of debt be conducted on the same premises where the
45 licensee is conducting business pursuant to the provisions of this arti-
46 cle.

47 (B) Except as otherwise provided by regulation of the superintendent,
48 all checks, drafts and money orders shall be deposited in the licensee's
49 bank account not later than the first business day following the day on
50 which they were cashed. No licensee shall at any time cash or advance
51 any moneys on a post-dated check or draft or engage in the business of
52 transmitting money or receiving money for transmission; provided, howev-
53 er, that a licensee may cash a check payable on the first banking busi-
54 ness day following the date of cashing [(a)] (I) if such check is drawn
55 by the United States, the state of New York, or any political subdivi-
56 sion of the state of New York, or by any department, bureau, agency,

1 authority, instrumentality or officer, acting in his official capacity,
2 of the United States or of the state of New York or of any political
3 subdivision of the state of New York, or [(b)] (II) if such check is a
4 payroll check drawn by an employer to the order of its employee in
5 payment for services performed by such employee.

6 (C) No licensee shall cash any check, draft or money order if the face
7 amount for which it is drawn is in excess of fifteen thousand dollars;
8 provided, however, that this restriction shall not apply to the cashing
9 of checks, drafts or money orders drawn by the United States, any state
10 thereof or any political subdivision of any such state, or by any
11 department, bureau, agency, authority, instrumentality or officer,
12 acting in his official capacity, of the United States, any state thereof
13 or any political subdivision of any such state, or any banking institu-
14 tion, or to any check or draft drawn by any insurance company, any
15 broker or dealer registered with the securities and exchange commission,
16 or any attorney for the settlement of claims, or to any check which has
17 been certified by the banking institution on which it has been drawn;
18 provided further, however, that any such restriction upon the maximum
19 face amount that may be cashed by a licensee shall not apply to the
20 cashing of checks, drafts or money orders by licensees for payees of
21 such checks, drafts or money orders that are other than natural persons.
22 For purposes of this subdivision, "banking institution" means any bank,
23 trust company, savings bank, savings and loan association or credit
24 union which is incorporated, chartered or organized under the laws of
25 this state or any other state or the United States.

26 2. [The] IN ADDITION TO THE AUTHORITY SET FORTH IN SUBDIVISION THREE
27 OF THIS SECTION, THE superintendent may suspend or revoke any license or
28 licenses issued pursuant to this article if, after notice and a hearing,
29 he OR SHE shall find that the licensee (a) has committed any fraud,
30 engaged in any dishonest activities or made any misrepresentation; or
31 (b) has violated any provisions of [the banking law] THIS CHAPTER or any
32 regulation issued pursuant thereto, or has violated any other law in the
33 course of [its or his] THE LICENSEE'S dealings as a licensed casher of
34 checks; or (c) has made a false statement in the application for such
35 license or failed to give a true reply to a question in such applica-
36 tion; or (d) has demonstrated his, HER or its incompetency or untrust-
37 worthiness to act as a licensed casher of checks; or (e) is not doing
38 sufficient business pursuant to this article to justify the continuance
39 of the license, or if he OR SHE shall find that any ground or grounds
40 exist which would require or warrant the refusal of an application for
41 the issuance of the license if such an application were then before
42 [him] THE SUPERINTENDENT. Such a hearing shall be held in the manner
43 and upon such notice as may be prescribed by the superintendent. [Pend-
44 ing an investigation or a hearing for the suspension or revocation of
45 any license or licenses issued pursuant to this article, the superinten-
46 dent may temporarily suspend such license or licenses for a period not
47 to exceed ninety days, provided the superintendent shall find that such
48 a temporary suspension is in the public interest.]

49 3. (A) THE SUPERINTENDENT MAY FOR GOOD CAUSE, WITHOUT NOTICE OR A
50 HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS
51 ARTICLE FOR A PERIOD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION.
52 "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE
53 HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL
54 ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY
55 CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS
56 ARTICLE.

1 (B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
2 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSU-
3 ANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY
4 PAYMENTS AS REQUIRED BY THIS CHAPTER.

5 (C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
6 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSU-
7 ANT TO THIS ARTICLE: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS
8 TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT
9 PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; (II) IMMEDIATELY
10 UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION
11 IN BANKRUPTCY; (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD
12 FILED AGAINST IT A PETITION IN BANKRUPTCY; OR (IV) AT LEAST THIRTY DAYS
13 AFTER THE LICENSEE HAS FAILED TO MAINTAIN THE REQUISITE CAPITAL LEVEL.

14 4. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE
15 ISSUED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION,
16 SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS
17 OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID
18 NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER
19 SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVI-
20 SION THREE OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE
21 SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE
22 LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE
23 OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUD-
24 ING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH
25 BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION
26 PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION,
27 UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED
28 SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE
29 AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON
30 SUCH NINETIETH DAY.

31 5. Whenever the superintendent shall suspend or revoke a license
32 issued pursuant to this article, he OR SHE shall forthwith execute a
33 written order to that effect. The superintendent shall on the date such
34 order is executed file one copy thereof in the office of the department
35 and serve a second copy thereof on the licensee either personally or by
36 mailing the same to the last known address of such licensee. Such order
37 shall be subject to review by the supreme court in the manner provided
38 in article seventy-eight of the civil practice law and rules; provided,
39 however, that a special proceeding for review of such order must be
40 commenced within thirty days from the date of such order of suspension
41 or revocation and, provided further, that no stay shall be granted pend-
42 ing the determination of the matter except on notice to the superinten-
43 dent and for a period not exceeding thirty days.

44 [4.] 6. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH
45 THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE
46 LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSI-
47 NESS OF A LICENSED CHECK CASHER IN THIS STATE.

48 7. Any person[, partnership, association or corporation] and the
49 several members, officers, directors, agents and employees thereof, who
50 shall violate any of the provisions of this article, shall be guilty of
51 a misdemeanor, and shall be punishable by imprisonment for not more than
52 one year or by a fine of not more than five hundred dollars, or by both
53 such fine and imprisonment.

54 [5.] 8. Notwithstanding the provisions of subdivision [four] SEVEN of
55 this section, any person[, partnership, association or corporation] and
56 the several members, officers, directors, agents and employees thereof

1 who shall violate the provisions of subdivision one of section three
2 hundred sixty-seven of this article shall be guilty of a class A misde-
3 meanor.

4 S 14. Subdivision 1 of section 374 of the banking law, as amended by
5 chapter 582 of the laws of 2000, is amended to read as follows:

6 1. The provisions of this article shall not apply when checks, drafts
7 or money orders are cashed, other than by a licensee, without a consid-
8 eration or charge; nor when checks, drafts or money orders are cashed,
9 other than by a licensee, as an incident to the conduct of any other
10 lawful business where not more than one dollar is charged for cashing
11 each check, draft or money order; nor shall the provisions of this arti-
12 cle apply to any national bank, federal reserve bank, or to any person[,
13 partnership, association, corporation or other organization] doing busi-
14 ness under or pursuant to the provisions of this chapter, except a
15 licensee under this article.

16 S 15. Subdivisions 6-a, 6-b and 7 of section 491 of the banking law,
17 subdivision 6-a as amended by chapter 289 of the laws of 1962, subdivi-
18 sion 6-b as added by chapter 358 of the laws of 1958 and subdivision 7
19 as amended by chapter 837 of the laws of 1966, are amended to read as
20 follows:

21 6-a. "Retail instalment obligation" or "obligation" means an agree-
22 ment, entered into in this state, pursuant to which the buyer promises
23 to pay, in instalments, the time sale price or prices of goods and/or
24 services, or any part thereof. The term does not include [(a)] a retail
25 instalment contract[, (b)] OR a retail instalment credit agreement [or
26 (c) an obligation which is intended to be and is ultimately insured or
27 guaranteed under title three of the act of Congress entitled "Service-
28 men's Readjustment Act of 1944"]. THE TERM INCLUDES SUCH AN AGREEMENT
29 WHEREVER ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF
30 SOLICITED IN PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR
31 HER OWN BEHALF OR THAT OF THE SELLER.

32 6-b. "Retail instalment credit agreement" or "credit agreement" means
33 an agreement entered into in this state, pursuant to which the buyer
34 promises to pay, in instalments, his OR HER outstanding indebtedness
35 from time to time to a retail seller, not evidenced by a retail instal-
36 ment contract or obligation, for one or more items of goods or services,
37 whenever purchased or obtained, which provides for a service charge and
38 under which instalment payments apply to his OR HER outstanding indebt-
39 edness from time to time. THE TERM INCLUDES SUCH AN AGREEMENT WHEREVER
40 ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF SOLICITED IN
41 PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR HER OWN BEHALF
42 OR THAT OF THE SELLER.

43 7. "Sales finance company" means a person engaged, in whole or in
44 part, directly or indirectly, in the business of purchasing or otherwise
45 acquiring retail instalment contracts, obligations or credit agreements
46 made by and between other parties, or any interest therein. The term
47 includes a retail seller of motor vehicles engaged, in whole or in part,
48 in the business of holding retail instalment contracts acquired from
49 retail buyers, [which have] IF THE NUMBER OF RETAIL INSTALMENT CONTRACTS
50 ACQUIRED IN ANY ONE YEAR EXCEEDS FIVE SUCH CONTRACTS, OR IF THE aggre-
51 gate unpaid time balances [of twenty-five] ON SUCH CONTRACTS EXCEED ONE
52 HUNDRED thousand dollars or more at any one time, exclusive of contracts
53 repurchased from a sales finance company or financing agency, under an
54 agreement to repurchase in case of default entered into as an incident
55 to the bona fide sale thereof to a sales finance company or financing
56 agency. The term does not include the pledgee of an aggregate number of

1 contracts to secure a bona fide loan thereon, OR A SECONDARY HOLDER OF
2 SUCH CONTRACTS. The term includes a person engaged, in whole or in
3 part, directly or indirectly, in the business of entering into retail
4 instalment credit agreements with retail buyers pursuant to subdivision
5 eleven of section four hundred thirteen of the personal property law.
6 FOR PURPOSES OF THIS ARTICLE, THE TERM "SECONDARY HOLDER" MEANS A PERSON
7 THAT (I) ACQUIRES INSTALMENT SALES CONTRACTS, OR INTERESTS THEREIN, FROM
8 PERSONS WHO ARE NOT RETAIL SELLERS WITH RESPECT TO SUCH CONTRACTS; (II)
9 IS NOT ITSELF A RETAIL SELLER WITH RESPECT TO SUCH CONTRACTS; AND (III)
10 DOES NOT SERVICE SUCH CONTRACTS, OR IN THE ORDINARY COURSE HAVE ANY
11 CONTACT WITH THE OBLIGORS UNDER SUCH CONTRACTS; PROVIDED, HOWEVER, THAT
12 ANY CONTACT BETWEEN A SECONDARY HOLDER AND AN OBLIGOR SHALL BE INITIATED
13 SOLELY BY THE OBLIGOR.

14 S 16. Subdivisions 1 and 2 of section 492 of the banking law, subdivi-
15 sion 1 as amended by chapter 547 of the laws of 2008 and subdivision 2
16 as added by chapter 635 of the laws of 1956, are amended to read as
17 follows:

18 1. No person, except a bank, savings bank, savings and loan associ-
19 ation, trust company, private banker, credit union, OR investment compa-
20 ny, organized under [article twelve of] this chapter [and authorized to
21 accept deposits, national bank, federal savings association, federal
22 credit union, or out-of-state state bank, as such term is defined in
23 subdivision two of section two hundred twenty-two of this chapter], A
24 BRANCH OR AGENCY OF A FOREIGN BANKING CORPORATION LICENSED BY THE SUPER-
25 INTENDENT OR COMPTROLLER OF THE CURRENCY TO TRANSACT BUSINESS IN THIS
26 STATE, ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, INDUSTRIAL
27 LOAN COMPANY, BANK OR CREDIT UNION ORGANIZED UNDER THE LAWS OF ANY OTHER
28 STATE OR THE UNITED STATES, or lender licensed TO CONDUCT BUSINESS
29 pursuant to THE PROVISIONS OF article nine of this chapter, shall engage
30 in the business of a sales finance company in this state without a
31 license therefor obtained from the superintendent, as provided in this
32 article.

33 2. [Application for a license required under this article shall be in
34 writing, under oath, and in the form prescribed by the superintendent,
35 and shall contain the following:

36 (a) The exact name of the applicant and date of incorporation, if
37 incorporated;

38 (b) The complete address where the business is to be conducted, show-
39 ing the street and number, if any, the office building and room number,
40 if any, and the municipality and county;

41 (c) If the applicant has one or more branches, subsidiaries or affil-
42 iates operating in this state, the complete address of each such place
43 of business; and

44 (d) The name and resident address of the owner or partners of the
45 applicant or, if a corporation or association, of the directors, trus-
46 tees and principal officers, and of any stockholder owning twenty per
47 centum or more of its stock; and

48 (e) Such other pertinent information as the superintendent may
49 require.]

50 THE APPLICATION FOR A LICENSE TO BE A SALES FINANCE COMPANY SHALL BE
51 IN WRITING, UNDER OATH, AND IN THE FORM PRESCRIBED BY THE SUPERINTEN-
52 DENT. THE APPLICATION SHALL CONTAIN THE NAME AND COMPLETE BUSINESS AND
53 RESIDENTIAL ADDRESS OR ADDRESSES OF THE APPLICANT. IF THE APPLICANT IS A
54 PARTNERSHIP, ASSOCIATION, CORPORATION OR OTHER FORM OF BUSINESS ORGAN-
55 IZATION, THE APPLICATION SHALL CONTAIN THE NAMES AND COMPLETE BUSINESS
56 AND RESIDENTIAL ADDRESSES OF EACH MEMBER, DIRECTOR AND PRINCIPAL OFFICER

1 THEREOF. SUCH APPLICATION SHALL ALSO INCLUDE A DESCRIPTION OF THE ACTIV-
2 ITIES OF THE APPLICANT, IN SUCH DETAIL AND FOR SUCH PERIODS, AS THE
3 SUPERINTENDENT MAY REQUIRE INCLUDING:

4 (A) AN AFFIRMATION OF FINANCIAL SOLVENCY NOTING SUCH CAPITALIZATION
5 REQUIREMENTS AS MAY BE PRESCRIBED BY THE SUPERINTENDENT, AND ACCESS TO
6 SUCH CREDIT AS MAY BE PRESCRIBED BY THE SUPERINTENDENT;

7 (B) AS PROVIDED IN SECTION TWENTY-TWO OF THIS CHAPTER, THE FINGER-
8 PRINTS OF THE APPLICANT AND EACH MEMBER, DIRECTOR AND PRINCIPAL OFFICER
9 OF THE APPLICANT AS THE SUPERINTENDENT MAY DETERMINE;

10 (C) AN AFFIRMATION THAT THE APPLICANT, OR ITS MEMBERS, DIRECTORS OR
11 PRINCIPALS AS MAY BE APPROPRIATE, ARE AT LEAST TWENTY-ONE YEARS OF AGE;

12 (D) INFORMATION AS TO THE CHARACTER, FITNESS, FINANCIAL AND BUSINESS
13 RESPONSIBILITY, BACKGROUND AND EXPERIENCES OF THE APPLICANT, ITS
14 MEMBERS, DIRECTORS OR PRINCIPALS AND OF ANY PERSON OWNING TEN PER CENTUM
15 OR MORE OF THE APPLICANT AND IF SUCH PERSON IS A PARTNERSHIP, CORPO-
16 RATION, ASSOCIATION OR OTHER FORM OF BUSINESS ORGANIZATION, SUCH ENTI-
17 TY'S MEMBERS, DIRECTORS OR PRINCIPALS; AND

18 (E) SUCH OTHER PERTINENT INFORMATION AS THE SUPERINTENDENT SHALL
19 REQUIRE.

20 S 17. Subdivision 2 of section 492-a of the banking law, as added by
21 chapter 142 of the laws of 1992, is amended to read as follows:

22 2. The superintendent shall approve or disapprove the proposed change
23 of control of a licensee in accordance with the provisions of subdivi-
24 sion one of section four hundred ninety-three of this article. The
25 superintendent shall approve or disapprove the application in writing
26 within ninety days after the date the application is [filed with] DEEMED
27 COMPLETE BY the superintendent.

28 S 18. Subdivision 7 of section 493 of the banking law is REPEALED and
29 subdivision 4, as amended by chapter 132 of the laws of 1969, is amended
30 to read as follows:

31 4. Each license issued hereunder shall remain in full force and effect
32 until it is surrendered by the licensee [or] revoked [or], TERMINATED OR
33 suspended as provided in this [article] CHAPTER.

34 S 19. Paragraph (e) of subdivision 1 and subdivision 7 of section 495
35 of the banking law are REPEALED, and subdivisions 2, 3, 4 and 5, as
36 added by chapter 635 of the laws of 1956, subdivision 5 as amended by
37 chapter 64 of the laws of 1958, are amended to read as follows:

38 2. [No] (A) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (B), (C) AND (D) OF
39 THIS SUBDIVISION, NO license UNDER THIS ARTICLE shall be suspended or
40 revoked except after a hearing thereon. [The] WHERE A HEARING IS
41 REQUIRED UNDER THIS SECTION, THE superintendent shall give the licensee
42 at least ten days' written notice of the time and place of such hearing
43 by [registered] CERTIFIED mail, RETURN RECEIPT REQUESTED, addressed to
44 the principal place of business in this state of such licensee THEN
45 APPEARING ON THE RECORDS OF THE SUPERINTENDENT. Any order suspending or
46 revoking such license shall recite the grounds upon which it is based
47 [and shall not be effective until ten days after written notice thereof
48 has been sent by registered mail to the licensee at such principal place
49 of business]. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE
50 WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE
51 LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSI-
52 NESS OF A SALES FINANCE COMPANY IN THIS STATE. THE SUPERINTENDENT IN HIS
53 OR HER DISCRETION MAY REVOKE OR SUSPEND ONLY THE PARTICULAR LICENSE WITH
54 RESPECT TO WHICH GROUNDS FOR REVOCATION OR SUSPENSION MAY OCCUR OR
55 EXIST; BUT IF HE OR SHE FINDS THAT GROUNDS FOR REVOCATION OR SUSPENSION
56 ARE OF GENERAL APPLICATION TO ALL PLACES OF BUSINESS, OR TO MORE THAN

ONE PLACE OF BUSINESS, OPERATED BY SUCH LICENSEE, HE OR SHE SHALL REVOKE OR SUSPEND ALL OF THE LICENSES ISSUED TO SAID LICENSEE OR THOSE LICENSES TO WHICH THE GROUNDS FOR REVOCATION OR SUSPENSION APPLY, AS THE CASE MAY BE.

(B) THE SUPERINTENDENT MAY FOR GOOD CAUSE, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE FOR A PERIOD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENT AS REQUIRED BY THIS CHAPTER.

(D) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE:

(I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO AUTHORITY PROVIDED BY THIS ARTICLE; OR

(II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; OR

(III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY.

3. [The superintendent in his discretion may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist; but if he finds that grounds for revocation or suspension are of general application to all places of business, or to more than one place of business, operated by such licensee, he shall revoke or suspend all of the licenses issued to said licensee or those licenses to which the grounds for revocation or suspension apply, as the case may be.] IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (C) OR (D) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. Any licensee may surrender any license by delivering to the superintendent written notice that such license is thereby surrendered, but such surrender shall not affect the licensee's civil or criminal liability for acts committed prior [thereto] TO SUCH SURRENDER OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

1 5. No suspension, revocation, TERMINATION or surrender of any license
2 shall impair or affect the obligation of any instalment contract, obli-
3 gation or credit agreement lawfully acquired previously thereto by the
4 licensee.

5 S 20. Subdivisions 3 and 4 of section 497 of the banking law are
6 REPEALED.

7 S 21. Section 499 of the banking law, as added by chapter 635 of the
8 laws of 1956, is amended to read as follows:

9 S 499. Violations and penalties. Any person who violates or partic-
10 ipates in the violation of any provision of this article, or who know-
11 ingly makes any incorrect statement of a material fact in any applica-
12 tion, report or statement filed pursuant to this article, or who
13 knowingly omits to state any material fact necessary to give the super-
14 intendent any information lawfully required by him OR HER or refuses to
15 permit any lawful investigation or examination, shall be guilty of a
16 misdemeanor and, upon conviction, shall be fined not more than five
17 hundred dollars or imprisoned for not more than six months or both, in
18 the discretion of the court.

19 S 22. Subdivision 2 of section 554 of the banking law is REPEALED and
20 a new subdivision 2 is added to read as follows:

21 2. "BANKING INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS AND LOAN
22 ASSOCIATION, TRUST COMPANY, PRIVATE BANKER, CREDIT UNION OR INVESTMENT
23 COMPANY ORGANIZED UNDER THE BANKING LAW OF THIS STATE, A BRANCH OR AGEN-
24 CY OF A FOREIGN BANKING CORPORATION LICENSED BY THE SUPERINTENDENT OR
25 THE COMPTROLLER OF THE CURRENCY TO TRANSACT BUSINESS IN THIS STATE, OR
26 ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, INDUSTRIAL LOAN
27 COMPANY OR CREDIT UNION ORGANIZED UNDER THE LAWS OF ANY OTHER STATE OR
28 THE UNITED STATES.

29 S 23. Subdivision 1 of section 555 of the banking law, as amended by
30 chapter 547 of the laws of 2008, is amended to read as follows:

31 1. No person except a [lending] BANKING institution [or], an author-
32 ized insurer OR A LENDER LICENSED PURSUANT TO ARTICLE NINE OF THIS CHAP-
33 TER shall engage in the business of a premium finance agency without a
34 license therefor obtained from the superintendent, as provided in this
35 article.

36 S 24. Subdivision 5 of section 556 of the banking law is REPEALED.

37 S 25. Section 558 of the banking law, as added by chapter 488 of the
38 laws of 1960, is amended to read as follows:

39 S 558. Change of location. Before any licensee changes any office [of
40 his] to another location, [he] IT shall [give written notice thereof to]
41 FILE A WRITTEN APPLICATION WITH the superintendent, who shall [without
42 charge issue an endorsement indicating the change and the date thereof,
43 which endorsement shall be attached to the license for such office and
44 be authority for the operation of the business under such license at
45 such new location] AFTER RECEIPT OF THE FEE PRESCRIBED IN SECTION EIGH-
46 TEEN-A OF THIS CHAPTER ISSUE A NEW LICENSE FOR THE NEW OFFICE.

47 S 26. Section 559 of the banking law, as added by chapter 488 of the
48 laws of 1960, paragraph (a) of subdivision 1 as amended by chapter 474
49 of the laws of 1962, paragraph (b) of subdivision 1 as amended by chap-
50 ter 1141 of the laws of 1969, subdivision 6 as amended by chapter 310 of
51 the laws of 1962 and subdivision 7 as added by chapter 121 of the laws
52 of 1993, is amended to read as follows:

53 S 559. Grounds for revocation of license; procedure. 1. [The] IN ADDI-
54 TION TO THE AUTHORITY PROVIDED BY SUBDIVISION TWO OF THIS SECTION, THE
55 superintendent may [forthwith revoke or] suspend OR REVOKE any license

1 issued [hereunder if] UNDER THIS ARTICLE IF, AFTER NOTICE AND A HEARING,
2 he OR SHE shall find that:

3 (a) The licensee has failed to pay [the annual license fee or] any sum
4 of money lawfully demanded, or to comply with any demand, ruling, or
5 requirement of the superintendent lawfully made pursuant to and within
6 the authority of this article;

7 (b) The licensee has violated any provision of this article, the act
8 of congress entitled "Truth in Lending Act" and the regulations there-
9 under, as such act and regulations may from time to time be amended or
10 any rule or regulation lawfully made by the superintendent under and
11 within the authority of this article;

12 (c) Any fact or condition exists which, if it had existed at the time
13 of the original application for such license, clearly would have
14 warranted the superintendent in refusing originally to issue such
15 license.

16 2. (A) THE SUPERINTENDENT MAY, FOR GOOD CAUSE, WITHOUT NOTICE OR A
17 HEARING, OR WHERE THERE IS A SUBSTANTIAL RISK OF PUBLIC HARM, ISSUE AN
18 ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE FOR A PERI-
19 OD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION. "GOOD CAUSE", AS
20 USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR
21 IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES
22 IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM
23 TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

24 (B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
25 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSU-
26 ANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY
27 PAYMENT AS REQUIRED BY THIS CHAPTER.

28 (C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
29 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSU-
30 ANT TO THIS ARTICLE:

31 (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT
32 REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO AUTHORITY
33 PROVIDED BY THIS ARTICLE;

34 (II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE
35 HAS FILED A PETITION IN BANKRUPTCY; OR

36 (III) UPON NOTICE AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD
37 FILED AGAINST IT A PETITION IN BANKRUPTCY.

38 3. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE
39 PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH
40 LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR
41 HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID
42 NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER
43 SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVI-
44 SION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPER-
45 INTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE
46 HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSI-
47 NESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING,
48 WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANK-
49 RUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSU-
50 ANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS
51 THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH
52 SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMAT-
53 ICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH
54 NINETIETH DAY.

55 4. The superintendent may revoke or suspend only the particular
56 license with respect to which grounds for revocation or suspension may

1 occur or exist, or, if he OR SHE shall find that such grounds for revo-
2 cation or suspension are of general application to all offices, or to
3 more than one office, operated by such licensee, he OR SHE shall revoke
4 or suspend all of the licenses issued to such licensee or such number of
5 licenses as such grounds apply to, as the case may be.

6 [3.] 5. Any licensee may surrender any license by delivering to the
7 superintendent written notice that he OR SHE thereby surrenders such
8 license, but such surrender shall not affect such licensee's civil or
9 criminal liability for acts committed prior to such surrender OR ITS
10 OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRA-
11 TIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH
12 SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPER-
13 INTENDENT.

14 [4.] 6. No revocation, TERMINATION or suspension or surrender of any
15 license shall impair or affect the obligation of an insured under any
16 lawful premium finance agreement previously acquired or held by the
17 licensee.

18 [5.] 7. Every license issued hereunder shall remain in force and
19 effect until the same shall have been surrendered, revoked, [or]
20 suspended OR TERMINATED in accordance with the provisions of this arti-
21 cle, but the superintendent shall have authority to reinstate suspended
22 licenses or to issue new licenses to a licensee whose license or
23 licenses shall have been revoked OR TERMINATED if no fact or condition
24 then exists which clearly would have warranted the superintendent in
25 refusing originally to issue such license under this article.

26 [6.] 8. Whenever the superintendent shall revoke or suspend a license
27 issued pursuant to this article, he OR SHE shall forthwith execute in
28 [triplicate] DUPLICATE a written order to that effect. The superinten-
29 dent shall file one copy of such order in the office of the department,
30 [file another in the office of the clerk of the county in which is
31 located the place designated in such license] and forthwith serve the
32 [third] SECOND copy upon the licensee, which order may be reviewed in
33 the manner provided by article seventy-eight of the civil practice law
34 and rules. Such special proceeding for review as authorized by this
35 section must be commenced within thirty days from the date of such order
36 of suspension or revocation.

37 [7. The superintendent may, on good cause shown, or where there is a
38 substantial risk of public harm, suspend any license issued pursuant to
39 this article for a period not exceeding thirty days, pending investi-
40 gation. "Good cause", as used in this subdivision, shall exist only when
41 the licensee has defaulted or is likely to default in performing its
42 financial engagements or engages in dishonest or inequitable practices
43 which may cause substantial harm to the persons afforded the protection
44 of this article.]

45 9. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS
46 ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE
47 HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A
48 PREMIUM FINANCE AGENCY IN THIS STATE.

49 S 27. Subdivisions 3 and 4 of section 560 of the banking law are
50 REPEALED.

51 S 28. Section 562 of the banking law is REPEALED.

52 S 29. Subdivision 1 of section 563 of the banking law, as added by
53 chapter 488 of the laws of 1960, is amended to read as follows:

54 1. Any person, including any member, officer, director or employee of
55 a licensee, who violates or participates in the violation of any
56 provision of this article, or who knowingly makes any incorrect state-

ment of a material fact in any application, report or statement filed pursuant to this article, or who knowingly omits to state any material fact necessary to give the superintendent any information lawfully required by him or HER OR refuses to permit any lawful investigation or examination, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both, in the discretion of the court.

S 30. Section 576 of the banking law is amended by adding a new subdivision 4 to read as follows:

4. IN ADDITION TO MAILING, NOTICES REQUIRED UNDER THIS SECTION MAY BE DELIVERED BY OTHER MEANS, INCLUDING ELECTRONIC MEANS, PROVIDED THAT ANY SUCH DELIVERY EVIDENCES RECEIPT OF THE NOTICE BY THE ADDRESSEE. SUCH RECEIPT MAY BE CREATED AND MAINTAINED IN ELECTRONIC FORM.

S 31. Subdivision (a) of section 577 of the banking law, as amended by chapter 1 of the laws of 1994, is amended to read as follows:

(a) By any person at a rate of interest not greater than the rate [prescribed by the banking board pursuant to] SET FORTH IN section fourteen-a of this chapter[, or, if no rate has been so prescribed, six per centum per annum]; or

S 32. Subdivisions 3 and 4 of section 580 of the banking law, subdivision 3 as amended by section 50 of part 0 of chapter 59 of the laws of 2006 and subdivision 4 as added by chapter 629 of the laws of 2002, are amended to read as follows:

3. Upon original application for a license or licenses to operate one or more places of business, the applicant shall pay an investigation fee in an aggregate amount as prescribed pursuant to section eighteen-a of this chapter. No additional investigation fee shall be required for any subsequent application for a license unless such application is subsequent to a denial of a license or to a revocation, suspension or surrender of a license; PROVIDED, HOWEVER, THAT AN APPLICATION TO ESTABLISH A BRANCH OFFICE OF THE LICENSEE SHALL BE ACCOMPANIED BY THE FEE PRESCRIBED IN SECTION EIGHTEEN-A OF THIS CHAPTER.

4. As a condition for the issuance and retention of a budget planner license, and subject to such regulations as the superintendent shall prescribe, applicants for a license shall file with the superintendent a surety bond in form satisfactory to the superintendent issued by a bonding company or insurance company authorized to do business in this state. Except as provided hereunder, the principal amount of such bond shall be two hundred fifty thousand dollars. The superintendent may require a larger bond if he or she determines, in his or her sole discretion, that a licensee has engaged in a pattern of conduct resulting in bona fide consumer complaints of misconduct and that such increased bond is necessary for the protection of consumers; or the superintendent may increase or decrease the amount of such bond or deposit based upon the applicant's or licensee's financial condition, business plan, and the actual or estimated aggregate amount of payments and fees paid by debtors to such licensee. In lieu of such bond, an applicant may keep on deposit with such banks, savings banks, savings and loan associations, trust companies, private bankers, national banks, federal savings banks, or federal savings and loan associations in the state as such licensee may designate and the superintendent may approve, interest-bearing bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or such other assets or letters of

1 credit as the superintendent shall by rule or regulation permit. The
2 proceeds of each bond or deposit shall constitute a trust fund to be
3 used exclusively to reimburse payments by debtors that have not been
4 properly distributed to creditors or to reimburse fees determined by the
5 superintendent to be improperly charged or collected and, in the event
6 of the insolvency, liquidation, or bankruptcy of such licensee, to pay
7 outstanding banking department examination costs and assessments. [With-
8 in ninety days after the effective date of this subdivision, each licen-
9 see shall comply with the requirements of this subdivision.]

10 S 33. Subdivision 1 of section 581 of the banking law, as amended by
11 chapter 456 of the laws of 2006, is amended to read as follows:

12 1. Upon the filing of an application for a license, if the superinten-
13 dent shall find that the financial responsibility, experience, charac-
14 ter, and general fitness of the applicant, and of the officers and
15 directors thereof are such as to command the confidence of the community
16 and to warrant belief that the business will be operated honestly, fair-
17 ly, and efficiently within the purposes of this article, he or she shall
18 thereupon issue a license in duplicate to engage in budget planning in
19 accordance with the provisions of this article. The superintendent shall
20 transmit one copy of such license to the applicant and file another in
21 the office of the banking department. Such license shall remain in full
22 force and effect until it is surrendered by the licensee or revoked or
23 suspended as hereinafter provided; if the superintendent shall not so
24 find he or she shall not issue such license and he or she shall notify
25 the applicant of the denial. The superintendent shall approve or deny IN
26 WRITING every application for license hereunder within ninety days [from
27 the filing thereof] AFTER THE DATE THE APPLICATION IS DEEMED COMPLETE BY
28 THE SUPERINTENDENT.

29 S 34. Subdivision 2 of section 583-a of the banking law, as added by
30 chapter 142 of the laws of 1992, is amended to read as follows:

31 2. The superintendent shall approve or disapprove the proposed change
32 of control of a licensee in accordance with the provisions of section
33 five hundred eighty-one of this article. The superintendent shall
34 approve or disapprove the application in writing within ninety days
35 after the date the application is [filed with] DEEMED COMPLETE BY the
36 superintendent.

37 S 35. Section 584 of the banking law, as added by chapter 448 of the
38 laws of 1975, paragraph (b) as amended and paragraph (c) of subdivision
39 1 as added by chapter 629 of the laws of 2002, is amended to read as
40 follows:

41 S 584. Grounds for suspension or revocation of license; procedure. 1.
42 [The] IN ADDITION TO THE AUTHORITY SET FORTH IN SUBDIVISION TWO OF THIS
43 SECTION, THE superintendent may SUSPEND OR revoke any license issued
44 [hereunder if] UNDER THIS ARTICLE IF, AFTER NOTICE AND A HEARING he OR
45 SHE shall find that:

46 (a) The licensee has violated any provisions of this article, or of
47 any rule or regulation made by the superintendent under and within the
48 authority of this article;

49 (b) Any fact or condition exists which, if it had existed at the time
50 of the original application for such license, would have warranted the
51 superintendent in refusing originally to issue such license; or

52 (c) The conviction of a licensee for a crime against the laws of this
53 state or any other state or of the United States involving moral turpi-
54 tude or fraudulent or dishonest actions, or the entry of a final judge-
55 ment in a court of competent jurisdiction against the licensee in a
56 civil action arising from fraud, misrepresentation, or deceit.

2. (A) The superintendent may, [on] FOR good cause [shown], [suspend] WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING any license ISSUED PURSUANT TO THIS ARTICLE for a period not exceeding [thirty] NINETY days, pending investigation. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST ONLY WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENTS AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; OR (II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY; OR (IV) IMMEDIATELY UPON THE RECEIPT BY THE SUPERINTENDENT OF NOTICE THAT THE BOND REQUIRED PURSUANT TO SECTION FIVE HUNDRED EIGHTY OF THIS ARTICLE IS NO LONGER IN EFFECT.

3. [No] IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT, HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED OR HAVING SUCH BOND REINSTATED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. (A) EXCEPT AS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION, NO license shall be revoked or suspended except after notice and a hearing thereon.

[4.] 5. Any licensee may surrender any license by delivering to the superintendent written notice that it thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

[5.] 6. No revocation, suspension, TERMINATION or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

[6.] 7. Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked [or],

1 suspended OR TERMINATED in accordance with the provisions of this arti-
2 cle, but the superintendent shall have authority to reinstate a
3 suspended license or to issue a new license to a licensee whose license
4 shall have been revoked if no fact or condition then exists which would
5 have warranted the superintendent in refusing originally to issue such
6 license under this article.

7 [7.] 8. Whenever the superintendent shall revoke or suspend a license
8 issued pursuant to this article, he OR SHE shall forthwith execute in
9 duplicate a written order to that effect. The superintendent shall file
10 one copy of such order in the office of the department of banking and
11 shall forthwith serve the other copy upon the licensee. Any such order
12 may be reviewed in the manner provided by article seventy-eight of the
13 civil practice law and rules. Such application for review as authorized
14 by this section must be made within thirty days from the date of such
15 order of suspension or revocation.

16 9. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS
17 ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE
18 HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A
19 BUDGET PLANNER IN THIS STATE.

20 S 36. Subdivision 1 of section 586 of the banking law, as added by
21 chapter 448 of the laws of 1975, is amended to read as follows:

22 1. The licensee shall keep and use in its business such books,
23 accounts, and records as will enable the superintendent to determine
24 whether such licensee is complying with the provisions of this article
25 and with the rules and regulations lawfully made by the superintendent
26 hereunder. Every licensee shall preserve such books, accounts, and
27 records, for at least three years; provided, however, that preservation
28 by photographic OR ELECTRONIC reproduction thereof [or records in photo-
29 graphic form] shall constitute compliance with the requirements of this
30 section.

31 S 37. Subdivision 1 of section 641 of the banking law, as amended by
32 chapter 677 of the laws of 2004, is amended to read as follows:

33 1. No person shall engage IN THIS STATE in the business of selling or
34 issuing checks, or engage in the business of receiving money for trans-
35 mission or transmitting the same, without a license therefor obtained
36 from the superintendent as provided in this article, nor shall any
37 person engage in such business as an agent, except as an agent of a
38 licensee or as agent of a payee; provided, however, that nothing in this
39 article shall apply to a bank, trust company, private banker, foreign
40 banking corporation licensed pursuant to article two of this chapter or
41 foreign banking company authorized to operate pursuant to the Interna-
42 tional Banking Act of 1978 (12 USC 3101 et seq.), as amended, savings
43 bank, savings and loan association, an investment company, a national
44 banking association, federal reserve bank, corporation organized under
45 the provisions of section twenty-five-a of an act of congress entitled
46 the "Federal Reserve Act", federal savings bank, federal savings and
47 loan association or state or federal credit union OR OUT-OF-STATE STATE
48 BANK. A PERSON ENGAGES IN THIS STATE IN THE BUSINESS OF SELLING OR
49 ISSUING CHECKS OR RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING THE
50 SAME IF SUCH PERSON INDUCES ANOTHER PERSON WHO IS A RESIDENT OF, OR
51 LOCATED IN, THIS STATE TO ENTER INTO A TRANSACTION BY SOLICITATION IN OR
52 INTO THIS STATE BY ANY MEANS, INCLUDING BUT NOT LIMITED TO, MAIL, ELEC-
53 TRONIC MAIL, TELEPHONE, RADIO, TELEVISION, THE INTERNET OR ANY OTHER
54 ELECTRONIC MEANS.

1 S 38. Subdivisions 2, 5 and 6 of section 642 of the banking law, as
2 amended by chapter 455 of the laws of 1993, are amended, and two new
3 subdivisions 7 and 8 are added to read as follows:

4 2. The superintendent shall approve [conditionally] or deny every
5 application for a license hereunder IN WRITING within ninety days [from
6 the filing thereof. Such period of ninety days may be extended, by the
7 written consent of the applicant, for such additional reasonable period
8 of time as may be required to enable compliance with such requirements
9 and conditions as may be provided by this article and the rules or regu-
10 lations of the superintendent issued thereunder] AFTER THE DATE THE
11 APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

12 5. [No] EXCEPT AS PROVIDED IN SUBDIVISION SIX OF THIS SECTION, NO
13 license shall be suspended or revoked except after a hearing thereon.
14 The superintendent shall give the licensee at least ten days' written
15 notice of the time and place of such hearing by registered or certified
16 mail addressed to the principal place of business of such licensee. Any
17 order of the superintendent suspending or revoking such license shall
18 state the grounds upon which it is based [and shall not be effective
19 until ten days after written notice thereof has been sent by registered
20 or certified mail to the licensee at such principal place of business,
21 except that revocation by reason of the licensee's bond not being kept
22 in full force and effect as required by this article, or by reason of
23 failure to keep on deposit sufficient securities or funds as required by
24 this article, may take effect immediately if the superintendent so
25 orders].

26 6. (A) The superintendent may, [on] FOR good cause [shown, or where
27 there is a substantial risk of public harm, suspend] WITHOUT NOTICE OR A
28 HEARING, ISSUE AN ORDER SUSPENDING any license issued pursuant to this
29 article for a period not exceeding [thirty] NINETY days, pending inves-
30 tigation. "Good cause", as used in this subdivision, shall exist only
31 when the licensee has defaulted or is likely to default in performing
32 its financial engagements or engages in dishonest or inequitable prac-
33 tices which may cause substantial harm to the persons afforded the
34 protection of this article.

35 (B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
36 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING THE LICENSE ISSUED HERE-
37 UNDER UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENT AS REQUIRED
38 BY THIS CHAPTER.

39 (C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT
40 NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED HERE-
41 UNDER: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY
42 REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO
43 THE AUTHORITY PROVIDED BY THIS ARTICLE; (II) IMMEDIATELY UPON NOTICE TO
44 THE SUPERINTENDENT THAT A LICENSEE HAS FILED A PETITION IN BANKRUPTCY;
45 (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A
46 PETITION IN BANKRUPTCY; OR (IV) IMMEDIATELY UPON RECEIPT BY THE SUPER-
47 INTENDENT OF NOTICE THAT THE LICENSEE HAS FAILED TO MAINTAIN THE BOND OR
48 SECURITIES REQUIRED BY SECTION SIX HUNDRED FORTY-THREE OF THIS ARTICLE
49 OR FAILED TO MAINTAIN THE INVESTMENTS REQUIRED BY SECTION SIX HUNDRED
50 FIFTY-ONE OF THIS ARTICLE.

51 7. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE
52 PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SIX OF THIS SECTION, SUCH
53 LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR
54 HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID
55 NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER
56 SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVI-

1 SION SIX OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPER-
2 INTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE
3 HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSI-
4 NESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING,
5 WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT, HAVING ANY SUCH BANK-
6 RUPTCY PETITION DISMISSED OR REINSTATING SUCH BOND OR INCREASING THE
7 VALUE OF SUCH INVESTMENTS. OTHERWISE, IN THE CASE OF A SUSPENSION PURSU-
8 ANT TO SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS,
9 IN HIS OR HER DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH
10 LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF
11 LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

12 8. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS
13 ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE
14 HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A
15 MONEY TRANSMITTER.

16 S 39. Subdivision 1 of section 643 of the banking law, as amended by
17 chapter 625 of the laws of 2004, is amended to read as follows:

18 1. As a condition for the issuance and retention of the license,
19 applicants for a license and other licensees shall, within thirty days
20 after notice by the superintendent, or such longer or shorter period as
21 he or she shall prescribe, file with the superintendent one or more
22 corporate surety bond or bonds, as required below, in form satisfactory
23 to him or her and issued by a bonding company or insurance company
24 authorized to do business in this state. One bond shall be in favor of
25 the superintendent and in such principal amount as he or she shall
26 determine is necessary or desirable for the protection of the purchasers
27 and holders of New York instruments sold or to be sold by the applicant
28 or licensee, provided, [however, that until June first, nineteen hundred
29 seventy-seven, the principal amount of such bond shall be no less than
30 two hundred ten thousand dollars and on and after June first, nineteen
31 hundred seventy-seven,] THAT the principal amount of such bond shall be
32 no less than five hundred thousand dollars. If the applicant or licensee
33 intends to engage or engages in the sale of New York traveler's checks,
34 such applicant or licensee shall file with the superintendent a separate
35 bond. Said bond shall be in favor of the superintendent and in such
36 principal amount as he or she shall determine is necessary or desirable
37 for the protection of the purchasers and holders of the New York travel-
38 er's checks sold or to be sold by the applicant or licensee; provided,
39 however, that the principal amount of such bond shall not be less than
40 seven hundred fifty thousand dollars, unless the superintendent, for
41 good cause shown, shall have determined that a lesser amount will
42 adequately protect the purchasers and holders of the New York traveler's
43 checks sold or to be sold by such applicant or licensee.

44 In making any determination under this subdivision, the superintendent
45 may take into account the financial condition of the licensee, the
46 number of locations in this state at which the licensee, either directly
47 or through agents, transacts the business of selling New York instru-
48 ments or New York traveler's checks, the controls imposed on such agents
49 or, and the possible exposure of purchasers and holders of New York
50 instruments and New York traveler's checks to loss in the event of the
51 insolvency, bankruptcy or other financial impairment of the licensee.
52 The proceeds of each bond shall constitute a trust fund for the exclu-
53 sive benefit of the purchasers and holders of the New York instruments
54 [and] OR New York traveler's checks, as the case may be. Except as
55 otherwise provided in the following sentence, in the event of the insol-
56 vency or bankruptcy of any licensee, the proceeds of the bond or bonds

1 held for the exclusive benefit of the purchasers and holders of New York
2 instruments and the proceeds of the bond or bonds held for the exclusive
3 benefit of the purchasers and holders of New York traveler's checks
4 shall be paid to the superintendent forthwith for disposition in accord-
5 ance with the provisions of this article. If any New York instruments
6 have been assigned to the fund, the proceeds of the bond held for the
7 exclusive benefit of the purchasers and holders of New York instruments
8 shall constitute a trust fund for the benefit of, and shall be payable
9 to, the fund to the extent of such assignment. From time to time, the
10 superintendent may require, upon thirty days notice or such longer or
11 shorter period as he or she shall prescribe, that such bond or bonds be
12 increased if he or she shall determine that such increase is necessary
13 or desirable for the protection of the purchasers and holders of New
14 York instruments and New York traveler's checks.

15 S 40. Section 647 of the banking law, as amended by chapter 455 of the
16 laws of 1993, is amended to read as follows:

17 S 647. Judicial review. [The refusal by the superintendent of an
18 original license, in the case of an applicant which, prior to January
19 first, nineteen hundred sixty-three, and upon the date of filing such
20 application, has lawfully been engaged in this state in the business of
21 selling or issuing checks or of receiving money for transmission or
22 transmitting the same, and in] IN all cases INVOLVING the suspension or
23 revocation of any license by the superintendent, SUCH SUSPENSION OR
24 REVOCATION shall be subject to judicial review in the manner in such
25 cases made and provided by law.

26 S 41. Section 651 of the banking law, as amended by chapter 677 of the
27 laws of 2004, is amended to read as follows:

28 S 651. Investments. Every licensee shall at all times maintain permis-
29 sible investments having (i) a market value, computed in accordance with
30 generally accepted accounting principles, at least equal to the aggre-
31 gate of the amount of all its outstanding payment instruments and all
32 its outstanding traveler's checks or (ii) a net carrying value, computed
33 in accordance with generally accepted accounting principles, at least
34 equal to the aggregate of the amount of all its outstanding payment
35 instruments and all its outstanding traveler's checks so long as the
36 market value of such permissible investments is at least [eighty] NINETY
37 per centum of the net carrying value. Notwithstanding the foregoing
38 provisions of this section, the superintendent shall have the authority,
39 for good cause shown, to exempt from the requirements of this section
40 any licensee.

41 S 42. Section 657 of the banking law, as amended by chapter 78 of the
42 laws of 1977, is amended to read as follows:

43 S 657. Payments to the fund. In the event the fund has borrowed any
44 monies from the property and liability insurance security fund pursuant
45 to the provisions of section six hundred fifty-eight of this [chapter]
46 ARTICLE, and has any debt outstanding thereto, or in the event an unin-
47 sured transmitter of money is declared, or declares itself, insolvent or
48 defaults on its New York instruments, the fund shall levy an assessment
49 upon each uninsured transmitter of money. The amount of such assessment
50 shall be determined by the superintendent provided, however, that each
51 uninsured transmitter of money shall be assessed ratably, in proportion
52 to the average of the dollar amounts of the New York instruments issued
53 by such uninsured transmitter of money outstanding at the end of each
54 calendar quarter for the calendar year preceding that in which the
55 assessment is made, and provided, further, that no such assessments
56 shall be levied once the net value of the fund shall equal such amount

1 as the superintendent shall have determined to be necessary to protect
2 the interests of the purchasers and holders of New York instruments. In
3 making his OR HER determination, the superintendent shall consider the
4 scope of the risk covered by the fund, the expenses incurred or expected
5 to be incurred by the fund, the amount of any loans and advances to the
6 fund, and the interest thereon.

7 In no event shall the total amount so assessed in any one year against
8 any uninsured transmitter of money pursuant to this section exceed [two
9 per centum of the] ONE PERCENT OF THE ANNUAL VOLUME OF New York instru-
10 ments of such uninsured transmitter of money [which were outstanding at
11 the end of] FOR the calendar year preceding that in which such assess-
12 ments are made or one hundred twenty-five thousand dollars, whichever is
13 less. The net value of the fund shall be determined by deducting from
14 the value of the assets of the fund the aggregate actual and estimated
15 liabilities of the fund as determined by the superintendent.

16 S 43. This act shall take effect immediately.