

S T A T E O F N E W Y O R K

3780--A

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

Introduced by Sen. SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- recommitted to the Committee on Banks in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to the operation of automated teller machines by entities other than banking institutions

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

1 Section 1. The banking law is amended by adding a new article 14-A to
2 read as follows:

3 ARTICLE XIV-A

4 REGISTERED AUTOMATED TELLER MACHINE OPERATORS AND NETWORKS

5 SECTION 800. DEFINITIONS.

6 801. REGISTRATION REQUIRED.

7 802. REGISTRATION OF NETWORKS.

8 803. APPLICATION TO REGISTER AS AN OPERATOR OF AUTOMATED TELLER
9 MACHINES.

10 804. CHANGES OF CONTROL.

11 805. EXAMINATION OF BOOKS, ACCOUNTS, AND RECORDS; INVESTI-
12 GATIONS.

13 806. VIOLATIONS AND PENALTIES.

14 807. SUSPENSION OR REVOCATION OF REGISTRATION.

15 808. REQUIRED DISCLOSURES TO CUSTOMERS.

16 809. RULES AND REGULATIONS.

17 810. SEVERABILITY.

18 S 800. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHER-
19 WISE INDICATES, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

20 1. "BANKING INSTITUTION" SHALL MEAN ANY BANK, TRUST COMPANY, SAVINGS
21 BANK, SAVINGS ASSOCIATION, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION OR

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

LBD09851-02-2

1 FOREIGN BANKING CORPORATION LICENSED, CHARTERED, OR INCORPORATED OR
2 OTHERWISE FORMED PURSUANT TO FEDERAL OR ANY STATE LAW.

3 2. "AUTOMATED TELLER MACHINE" SHALL MEAN AN ELECTRONIC DEVICE OPERATED
4 BY A PERSON WHICH, IN CONJUNCTION WITH A PROCESSOR AND NETWORK, ALLOWS A
5 CUSTOMER TO DEBIT AN ACCOUNT IN EXCHANGE FOR DISPENSING CASH AND THAT
6 MAY ALLOW A CUSTOMER TO EFFECTUATE OTHER ACCOUNT TRANSACTIONS; PROVIDED
7 HOWEVER SUCH TERM SHALL NOT BE DEEMED TO INCLUDE ANY AUTOMATED TELLER
8 MACHINE OR SIMILAR ELECTRONIC DEVICE OPERATED BY A BANKING INSTITUTION
9 OR A SUBSIDIARY OR SERVICE CORPORATION OF A BANKING INSTITUTION, A
10 POINT-OF-SALE TERMINAL, OR A COMPUTER TERMINAL OWNED OR OPERATED BY A
11 CUSTOMER TO ACCESS HIS OR HER DEPOSIT ACCOUNT WITHIN A BANKING INSTITU-
12 TION.

13 3. "OPERATE" SHALL MEAN TO CONNECT AN AUTOMATED TELLER MACHINE TO ONE
14 OR MORE NETWORKS.

15 4. "NETWORK" SHALL MEAN AN ELECTRONIC SYSTEM FOR TRANSMITTING ITEMS
16 AND MESSAGES BETWEEN BANKING INSTITUTIONS, PROCESSORS, AND AUTOMATED
17 TELLER MACHINES OR SIMILAR ELECTRONIC DEVICES.

18 5. "OPERATOR" SHALL MEAN A PERSON THAT OPERATES AN AUTOMATED TELLER
19 MACHINE AND WHO, BY VIRTUE OF THE SPONSORSHIP OF A BANKING INSTITUTION,
20 IS ADMITTED AS A PARTICIPANT INTO ONE OR MORE NETWORKS.

21 6. "PERSON" SHALL MEAN AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMIT-
22 ED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP, ASSOCIATION OR
23 ANY OTHER ENTITY, OTHER THAN A BANKING INSTITUTION.

24 7. "PROCESSOR" SHALL MEAN ANY PERSON WHO OR WHICH ELECTRONICALLY
25 ACQUIRES FINANCIAL DATA EMANATING FROM AN AUTOMATED TELLER MACHINE AND
26 RELAYS THAT DATA TO A NETWORK.

27 8. "SERVICING AGENT" SHALL MEAN A PERSON WHO CONTRACTS WITH A REGIS-
28 TERED OPERATOR TO PROVIDE CUSTOMER RELATIONS, FINANCIAL RECORDKEEPING,
29 OR ANY OTHER SERVICE IN REGARD TO AN AUTOMATED TELLER MACHINE.

30 9. "ELECTRONIC" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN
31 SECTION THREE HUNDRED TWO OF THE STATE TECHNOLOGY LAW.

32 10. "CUSTOMER" SHALL MEAN AN INDIVIDUAL WHO CONDUCTS, OR ATTEMPTS TO
33 CONDUCT, THROUGH USE OF AN AUTOMATED TELLER MACHINE, A DEBIT OR OTHER
34 FINANCIAL TRANSACTION PERTAINING TO HIS OR HER ACCOUNT OR ACCOUNTS AT A
35 BANKING INSTITUTION OR PERTAINING TO THE USE OF ANY OTHER TYPE OF CARD
36 WHICH MAY BE USED TO OBTAIN CASH FROM SUCH MACHINE.

37 S 801. REGISTRATION REQUIRED. NO PERSON THAT IS SPONSORED BY A BANKING
38 INSTITUTION AND UPON SUCH SPONSORSHIP IS ADMITTED INTO A NETWORK AS A
39 BANKING INSTITUTION-SPONSORED PARTICIPANT SHALL, ON OR AFTER JUNE FIRST,
40 TWO THOUSAND THIRTEEN, OPERATE AN AUTOMATED TELLER MACHINE, IF SUCH
41 MACHINE IS LOCATED WITHIN THIS STATE, WITHOUT FIRST BEING REGISTERED BY
42 THE SUPERINTENDENT AS AN OPERATOR OF AUTOMATED TELLER MACHINES PURSUANT
43 TO THIS ARTICLE; PROVIDED HOWEVER THAT THE REGISTRATION PROVISIONS OF
44 THIS SECTION SHALL NOT APPLY TO A SUBSIDIARY OF A BANKING INSTITUTION.

45 S 802. REGISTRATION OF NETWORKS. ANY NETWORK TRANSMITTING ITEMS OR
46 MESSAGES BETWEEN BANKING INSTITUTIONS, PROCESSORS AND AUTOMATED TELLER
47 MACHINES OF REGISTERED OPERATORS SHALL REGISTER WITH THE SUPERINTENDENT.
48 THE SUPERINTENDENT SHALL PRESCRIBE BY REGULATION THE METHOD OF SUCH
49 REGISTRATION AND ANY REQUIREMENTS RELATING THERETO. ANY SUCH NETWORKS
50 SHALL NOT BE SUBJECT TO ANY OTHER PROVISIONS OF THIS CHAPTER, EXCEPT
51 SECTIONS THIRTY-NINE AND FORTY-FOUR OF THIS CHAPTER AND AS OTHERWISE MAY
52 BE REQUIRED BY THIS ARTICLE. NO REGISTERED OPERATOR SHALL TRANSMIT
53 MESSAGES OR ITEMS UPON OR THROUGH NETWORKS THAT ARE NOT REGISTERED BY
54 THE SUPERINTENDENT AND DO NOT MAINTAIN OPERATIONAL AND PERFORMANCE STAN-
55 DARDS ACCEPTABLE TO THE SUPERINTENDENT.

1 S 803. APPLICATION TO REGISTER AS AN OPERATOR OF AUTOMATED TELLER
2 MACHINES. 1. UPON THE FILING OF AN APPLICATION FOR REGISTRATION, IF THE
3 SUPERINTENDENT SHALL FIND THE FINANCIAL RESPONSIBILITY, EXPERIENCE,
4 CHARACTER, AND GENERAL FITNESS OF THE APPLICANT, AND OF THE OFFICERS AND
5 DIRECTORS THEREOF IF THE APPLICANT IS A CORPORATION, ARE SUCH AS TO
6 COMMAND THE CONFIDENCE OF THE COMMUNITY AND TO WARRANT BELIEF THAT THE
7 BUSINESS WILL BE OPERATED HONESTLY, FAIRLY, AND EFFICIENTLY WITHIN THE
8 PURPOSE OF THIS ARTICLE, THE SUPERINTENDENT SHALL THEREUPON REGISTER THE
9 APPLICANT AS AN OPERATOR OF AUTOMATED TELLER MACHINES AND ISSUE A
10 CERTIFICATE ATTESTING TO SUCH REGISTRATION IN DUPLICATE. THE SUPERINTEN-
11 DENT SHALL TRANSMIT ONE COPY OF SUCH CERTIFICATE TO THE APPLICANT AND
12 FILE ANOTHER IN HIS OR HER OFFICE. IF THE SUPERINTENDENT SHALL NOT SO
13 FIND, THE SUPERINTENDENT SHALL NOT REGISTER SUCH APPLICANT AND SHALL
14 NOTIFY THE APPLICANT OF SUCH DENIAL IN WRITING. SUCH REGISTRATION SHALL
15 REMAIN IN FULL FORCE AND EFFECT UNTIL IT IS SURRENDERED BY THE REGIS-
16 TERED OPERATOR OR REVOKED OR SUSPENDED PURSUANT TO THIS CHAPTER,
17 PROVIDED THAT SUCH REGISTRATION SHALL BE SUSPENDED UPON NOTICE BY THE
18 SUPERINTENDENT FOR FAILURE TO PAY ANY ASSESSMENT CHARGED TO SUCH REGIS-
19 TERED OPERATOR PURSUANT TO SECTION SEVENTEEN OF THIS CHAPTER UPON THE
20 DATE ANY SUCH PAYMENT IS DUE. UPON SUCH SUSPENSION, NO REGISTERED OPERA-
21 TOR SHALL OPERATE OR ESTABLISH ANY AUTOMATED TELLER MACHINE.

22 2. THE SUPERINTENDENT MAY REFUSE TO ISSUE A CERTIFICATE PURSUANT TO
23 THIS ARTICLE IF HE OR SHE SHALL FIND THAT THE APPLICANT, OR ANY PERSON
24 WHO IS A DIRECTOR, OFFICER, PARTNER, EMPLOYEE OR SUBSTANTIAL STOCKHOLDER
25 OF OR CONSULTANT TO SUCH APPLICANT (I) HAS BEEN CONVICTED OF A CRIME
26 INVOLVING AN ACTIVITY WHICH IS A FELONY UNDER THIS CHAPTER OR UNDER
27 ARTICLE ONE HUNDRED FIFTY-FIVE, ONE HUNDRED SEVENTY, ONE HUNDRED SEVEN-
28 TY-FIVE, ONE HUNDRED SEVENTY-SIX, ONE HUNDRED EIGHTY, ONE HUNDRED EIGHT-
29 Y-FIVE, ONE HUNDRED NINETY, TWO HUNDRED TEN OR FOUR HUNDRED SEVENTY OF
30 THE PENAL LAW OR ANY COMPARABLE FELONY UNDER THE LAWS OF ANY OTHER STATE
31 OR THE UNITED STATES, PROVIDED THAT SUCH CRIME WOULD BE A FELONY IF
32 COMMITTED AND PROSECUTED UNDER THE LAWS OF THIS STATE, OR (II) HAS HAD A
33 REGISTRATION REVOKED BY THE SUPERINTENDENT, OR (III) HAS BEEN A DIREC-
34 TOR, PARTNER, OR SUBSTANTIAL STOCKHOLDER OF AN ENTITY WHICH HAS HAD A
35 REGISTRATION REVOKED BY THE SUPERINTENDENT, OR (IV) HAS BEEN AN EMPLOYEE
36 OR OFFICER OF, OR A CONSULTANT TO, AN ENTITY WHICH HAS HAD A REGISTRA-
37 TION REVOKED BY THE SUPERINTENDENT WHERE SUCH PERSON SHALL HAVE BEEN
38 FOUND BY THE SUPERINTENDENT TO BEAR RESPONSIBILITY IN CONNECTION WITH
39 SUCH REVOCATION. THE TERM "SUBSTANTIAL STOCKHOLDER" AS USED IN THIS
40 ARTICLE SHALL BE DEEMED TO REFER TO A PERSON WHO POSSESSES, DIRECTLY OR
41 INDIRECTLY, THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT
42 AND POLICIES OF A CORPORATION OR ANY OTHER ENTITY, WHETHER THROUGH THE
43 OWNERSHIP OF VOTING STOCK OF ANY CORPORATION OR THROUGH THE OWNERSHIP OF
44 VOTING STOCK OF ANY PERSON WHICH POSSESSES SUCH POWER OR OTHERWISE. THE
45 POWER TO SO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES
46 OF A CORPORATION SHALL BE PRESUMED TO EXIST IF ANY PERSON, DIRECTLY OR
47 INDIRECTLY, OWNS, CONTROLS OR HOLDS WITH POWER TO VOTE TEN PER CENTUM OR
48 MORE OF THE VOTING STOCK OF ANY CORPORATION.

49 3. APPLICATION FOR A REGISTRATION REQUIRED UNDER THIS ARTICLE SHALL BE
50 IN WRITING, UNDER OATH, AND IN THE FORM PRESCRIBED BY THE SUPERINTEN-
51 DENT, AND SHALL CONTAIN THE FOLLOWING INFORMATION:

52 (A) THE EXACT NAME OF THE APPLICANT AND, IF INCORPORATED OR OTHERWISE
53 FORMED, THE DATE AND THE STATE OF SUCH INCORPORATION OR FORMATION;

54 (B) THE COMPLETE BUSINESS ADDRESS OF THE PRINCIPAL OFFICE FROM WHICH
55 BUSINESS IS TO BE CONDUCTED, AND WHERE THE BOOKS AND RECORDS OF THE

1 APPLICANT ARE MAINTAINED AND TO BE MAINTAINED, SHOWING THE STREET,
2 NUMBER IF ANY, THE ZIP CODE, AND THE MUNICIPALITY OR COUNTY;

3 (C) THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT, IF AN INDIVIDUAL
4 OR, IF A PARTNERSHIP, OF ITS PARTNERS OR, IF A CORPORATION OR ASSOCI-
5 ATION, OF THE DIRECTORS, AND PRINCIPAL OFFICERS THEREOF, AND OF ANY
6 STOCKHOLDER OWNING TEN PER CENTUM OR MORE OF AND CLASS OF ITS STOCK; AND

7 (D) SUCH OTHER PERTINENT INFORMATION AS THE SUPERINTENDENT MAY
8 REQUIRE.

9 4. EACH REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL STATE THE
10 PRINCIPAL BUSINESS ADDRESS OF SUCH REGISTERED OPERATOR AND SHALL FULLY
11 STATE THE NAME OF SUCH REGISTERED OPERATOR AND THE DATE AND PLACE OF ITS
12 INCORPORATION OR FORMATION IF APPLICABLE. SUCH REGISTRATION SHALL NOT BE
13 TRANSFERABLE OR ASSIGNABLE. IN THE EVENT THE LOCATION AT WHICH THE PRIN-
14 CIPAL PLACE OF BUSINESS IS TO BE CONDUCTED SHALL BE CHANGED, THE REGIS-
15 TERED OPERATOR SHALL FORTHWITH NOTIFY THE SUPERINTENDENT WHO SHALL THER-
16 EUPON ATTACH TO THE REGISTRATION SETTING FORTH SUCH CHANGED LOCATION.

17 5. UPON ANY CHANGE OF THE OFFICERS, PARTNERS OR DIRECTORS OF ANY
18 REGISTERED OPERATOR, SUCH REGISTERED OPERATOR SHALL SUBMIT TO THE SUPER-
19 INTENDENT THE NAME, ADDRESS AND OCCUPATION OF EACH NEW OFFICER, PARTNER
20 OR DIRECTOR, AND PROVIDE SUCH OTHER INFORMATION AS THE SUPERINTENDENT
21 MAY REQUIRE.

22 S 804. CHANGES OF CONTROL. 1. IT SHALL BE UNLAWFUL EXCEPT WITH THE
23 PRIOR APPROVAL OF THE SUPERINTENDENT FOR ANY ACTION TO BE TAKEN WHICH
24 RESULTS IN A CHANGE OF CONTROL OF THE BUSINESS OF A REGISTERED OPERATOR.
25 PRIOR TO ANY CHANGE OF CONTROL, THE PERSON DESIROUS OF ACQUIRING CONTROL
26 OF THE BUSINESS OF A REGISTERED OPERATOR SHALL MAKE WRITTEN APPLICATION
27 TO THE SUPERINTENDENT. THE APPLICATION SHALL CONTAIN SUCH INFORMATION AS
28 THE SUPERINTENDENT MAY PRESCRIBE AS NECESSARY OR APPROPRIATE FOR THE
29 PURPOSE OF MAKING THE DETERMINATION REQUIRED BY SUBDIVISION TWO OF THIS
30 SECTION.

31 2. THE SUPERINTENDENT SHALL APPROVE OR DISAPPROVE THE PROPOSED CHANGE
32 OF CONTROL OF A REGISTERED OPERATOR IN ACCORDANCE WITH THE PROVISIONS OF
33 SECTION EIGHT HUNDRED THREE OF THIS ARTICLE RELATING TO REGISTRATION OF
34 OPERATORS. IF THE SUPERINTENDENT DISAPPROVES SUCH APPLICATION, OR IF NO
35 SUCH APPLICATION HAS BEEN MADE, UPON CONSUMMATION OF THE ACQUISITION OF
36 CONTROL, THE CERTIFICATE OF THE REGISTERED OPERATOR SHALL BECOME NULL
37 AND VOID AND THE APPLICANT OR SUCH REGISTERED OPERATOR, WHICHEVER HAS
38 POSSESSION OF SUCH CERTIFICATE, SHALL FORTHWITH SURRENDER TO THE SUPER-
39 INTENDENT THE REGISTRATION THERETOFORE IN EFFECT.

40 3. FOR A PERIOD OF SIX MONTHS FROM THE DATE OF APPOINTMENT OR QUALI-
41 FICATION THEREOF AND FOR SUCH ADDITIONAL PERIOD OF TIME AS THE SUPER-
42 INTENDENT MAY PRESCRIBE, IN WRITING, THE PROVISIONS OF SUBDIVISIONS ONE
43 AND TWO OF THIS SECTION SHALL NOT APPLY TO THE TRANSFER OF CONTROL BY
44 OPERATION OF LAW TO THE LEGAL REPRESENTATIVE, AS HEREINAFTER DEFINED, OF
45 ONE WHO HAS CONTROL OF A REGISTERED OPERATOR. THEREAFTER, SUCH LEGAL
46 REPRESENTATIVE SHALL COMPLY WITH THE PROVISIONS OF SUBDIVISIONS ONE AND
47 TWO OF THIS SECTION. THE PROVISIONS OF SUCH SUBDIVISIONS SHALL BE APPLI-
48 CABLE TO AN APPLICATION MADE UNDER SUCH SECTION BY A LEGAL REPRESENT-
49 TATIVE. THE TERM "LEGAL REPRESENTATIVE", FOR PURPOSES OF THIS SECTION,
50 SHALL MEAN ONE DULY APPOINTED BY A COURT OF COMPETENT JURISDICTION TO
51 ACT AS EXECUTOR, ADMINISTRATOR, TRUSTEE, COMMITTEE, CONSERVATOR OR
52 RECEIVER, INCLUDING ONE WHO SUCCEEDS A LEGAL REPRESENTATIVE AND ONE
53 ACTING IN AN ANCILLARY CAPACITY THERETO IN ACCORDANCE WITH THE
54 PROVISIONS OF SUCH COURT APPOINTMENT.

55 4. AS USED IN THIS SECTION, THE TERM "CONTROL" MEANS THE POSSESSION,
56 DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF

1 THE MANAGEMENT AND POLICIES OF A REGISTERED OPERATOR, WHETHER THROUGH
2 THE OWNERSHIP OF VOTING STOCK OF SUCH REGISTERED OPERATOR OR THROUGH THE
3 OWNERSHIP OF VOTING STOCK OF ANY PERSON WHICH POSSESSES SUCH POWER OR
4 OTHERWISE. CONTROL SHALL BE PRESUMED TO EXIST IF ANY PERSON, DIRECTLY OR
5 INDIRECTLY, OWNS, CONTROLS OR HOLDS WITH POWER TO VOTE TEN PER CENTUM OR
6 MORE OF THE VOTING STOCK OF ANY REGISTERED OPERATOR, BUT NO PERSON SHALL
7 BE DEEMED TO CONTROL A REGISTERED OPERATOR SOLELY BY REASON OF BEING AN
8 OFFICER OR DIRECTOR OF SUCH REGISTERED OPERATOR OR PERSON. THE SUPER-
9 INTENDENT MAY IN HIS OR HER DISCRETION, UPON APPLICATION OF A REGISTERED
10 OPERATOR OR ANY PERSON WHO, DIRECTLY OR INDIRECTLY, OWNS, CONTROLS OR
11 HOLDS WITH POWER TO VOTE OR SEEKS TO OWN, CONTROL OR HOLD WITH POWER TO
12 VOTE ANY VOTING STOCK OF SUCH REGISTERED OPERATOR, DETERMINE WHETHER OR
13 NOT THE OWNERSHIP, CONTROL OR HOLDING OF SUCH VOTING STOCK CONSTITUTES
14 OR WOULD CONSTITUTE CONTROL OF SUCH REGISTERED OPERATOR FOR PURPOSES OF
15 THIS SECTION.

16 S 805. EXAMINATION OF BOOKS, ACCOUNTS, AND RECORDS; INVESTIGATIONS. 1.
17 (A) FOR THE PURPOSE OF DISCOVERING VIOLATIONS OF THIS ARTICLE OR SECUR-
18 ING INFORMATION LAWFULLY REQUIRED HEREUNDER, THE SUPERINTENDENT MAY AT
19 ANY TIME, AS OFTEN AS MAY BE DETERMINED, EITHER PERSONALLY OR BY A
20 PERSON DULY DESIGNATED BY THE SUPERINTENDENT, INVESTIGATE THE BUSINESS
21 AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES USED THEREIN OF
22 EVERY REGISTERED OPERATOR AND ANY SERVICING AGENT OR PROCESSOR WITH
23 RESPECT TO ANY CONTRACTS OR AGREEMENTS THAT SUCH AGENT OR PROCESSOR MAY
24 HAVE WITH ANY SUCH REGISTERED OPERATOR. FOR THAT PURPOSE, THE SUPER-
25 INTENDENT AND DULY DESIGNATED REPRESENTATIVES SHALL HAVE FREE ACCESS TO
26 THE OFFICES AND PLACE OF BUSINESS, BOOKS, ACCOUNTS, PAPERS, RECORDS,
27 FILES, SAFES AND VAULTS, AND LOCATIONS OF ALL AUTOMATED TELLER MACHINES
28 OF SUCH REGISTERED OPERATOR, SERVICING AGENT OR PROCESSOR.

29 (B) WHENEVER A REGISTERED OPERATOR, OR ANY SUBSIDIARY OR AFFILIATE OF
30 SUCH REGISTERED OPERATOR, CAUSES TO BE PERFORMED FOR SUCH REGISTERED
31 OPERATOR, BY CONTRACT OR OTHERWISE, ANY SERVICES RELATED TO, DIRECTLY OR
32 INDIRECTLY, THE AUTOMATED TELLER MACHINES WHICH SUCH REGISTERED OPERATOR
33 OPERATES, SUCH PERFORMANCE SHALL BE SUBJECT TO REGULATION AND EXAMINA-
34 TION BY THE SUPERINTENDENT TO THE SAME EXTENT AS IF SUCH SERVICES WERE
35 BEING PERFORMED BY THE REGISTERED OPERATOR ITSELF AND SUCH REGISTERED
36 OPERATOR SHALL NOTIFY THE SUPERINTENDENT OF THE EXISTENCE OF THE SERVICE
37 RELATIONSHIP WITHIN THIRTY DAYS AFTER THE MAKING OF SUCH SERVICE
38 CONTRACT OR THE PERFORMANCE OF THE SERVICE, WHICHEVER OCCURS FIRST.

39 (C) FOR PURPOSES OF EVALUATING THE OPERATIONS AND PERFORMANCE OF ANY
40 REGISTERED NETWORK, THE SUPERINTENDENT SHALL INVESTIGATE THE BUSINESS
41 AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES USED THEREIN OF
42 EVERY REGISTERED NETWORK. THE EXPENSES INCURRED IN MAKING ANY INVESTI-
43 GATIONS AND EXAMINATIONS OF, OR FOR SPECIAL SERVICES PERFORMED ON
44 ACCOUNT OF, ANY REGISTERED NETWORK SHALL BE ASSESSED AGAINST AND PAID BY
45 THE REGISTERED NETWORK FOR WHICH THEY WERE INCURRED OR PERFORMED.

46 2. ALL REPORTS OF INVESTIGATIONS AND OTHER REPORTS RENDERED PURSUANT
47 TO THIS SECTION, AND ALL CORRESPONDENCE AND MEMORANDA CONCERNING OR
48 ARISING OUT OF SUCH INVESTIGATIONS OR REPORTS, INCLUDING ANY DULY
49 AUTHENTICATED COPY OR COPIES THEREOF IN POSSESSION OF ANY REGISTERED
50 OPERATOR, SERVICING AGENT, PROCESSOR OR REGISTERED NETWORK SHALL BE
51 CONFIDENTIAL COMMUNICATIONS AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
52 TEN OF SECTION THIRTY-SIX OF THIS CHAPTER.

53 3. ANY REGISTERED OPERATOR OR REGISTERED NETWORK THAT FAILS TO MAKE
54 ANY REPORT REQUIRED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE, ON
55 OR BEFORE THE DAY DESIGNATED FOR THE MAKING THEREOF, FAILS TO INCLUDE
56 THEREIN ANY PRESCRIBED MATERIAL, OR INCLUDES ANY FALSE OR MISLEADING

1 INFORMATION THEREIN, SHALL BE SUBJECT TO SUCH ENFORCEMENT AND PENALTIES
2 AS MAY BE PRESCRIBED BY THIS CHAPTER.

3 S 806. VIOLATIONS AND PENALTIES. 1. A REGISTERED OPERATOR THAT
4 VIOLATES ANY PROVISION OF THIS ARTICLE OR OTHER APPLICABLE PROVISIONS OF
5 THIS CHAPTER, OR ANY RULE OR REGULATION PRESCRIBED BY THE SUPERINTENDENT
6 PURSUANT TO THIS ARTICLE OR OF ANY OTHER LAW, RULE OR REGULATION OF THIS
7 STATE OR THE FEDERAL GOVERNMENT OR THAT THROUGH ANY UNFAIR, UNCONSCIONA-
8 BLE, OR DECEPTIVE PRACTICE CAUSES ACTUAL DAMAGE TO A CUSTOMER, SHALL BE
9 SUBJECT TO SECTIONS THIRTY-NINE AND FORTY-FOUR OF THIS CHAPTER, AND
10 SUSPENSION OR REVOCATION OF THE OPERATOR'S REGISTRATION PURSUANT TO
11 SECTION EIGHT HUNDRED SEVEN OF THIS ARTICLE.

12 2. A PERSON THAT OPERATES AN AUTOMATED TELLER MACHINE PURSUANT TO THIS
13 ARTICLE WITHOUT BEING REGISTERED BY THE SUPERINTENDENT SHALL BE GUILTY
14 OF A CLASS A MISDEMEANOR.

15 3. A PERSON THAT OPERATES A MACHINE THAT WOULD OTHERWISE BE CONSIDERED
16 AN AUTOMATED TELLER MACHINE PURSUANT TO THIS ARTICLE, EXCEPT THAT SUCH
17 MACHINE IS NOT OPERATED IN CONJUNCTION WITH A NETWORK, SHALL BE GUILTY
18 OF A CLASS C FELONY.

19 4. NOTHING IN THIS ARTICLE SHALL LIMIT ANY STATUTORY OR COMMON-LAW
20 RIGHT OF ANY PERSON, REGISTERED OPERATOR OR REGISTERED NETWORK TO BRING
21 ANY ACTION IN ANY COURT FOR ANY ACT, OR THE RIGHT OF THE STATE TO PUNISH
22 ANY PERSON, OPERATOR OR NETWORK FOR VIOLATION OF ANY LAW.

23 5. IF ANY UNREGISTERED PERSON OPERATES AN AUTOMATED TELLER MACHINE, OR
24 A MACHINE THAT WOULD OTHERWISE BE CONSIDERED AN AUTOMATED TELLER MACHINE
25 PURSUANT TO THIS ARTICLE, EXCEPT THAT SUCH MACHINE IS NOT OPERATED IN
26 CONJUNCTION WITH A NETWORK, HE OR SHE SHALL BE LIABLE TO ANY PERSON FOR
27 A SUM OF MONEY NOT LESS THAN AN AMOUNT EQUAL TO ANY MONETARY LOSS AND
28 ANY OTHER DAMAGES AND EXPENSES INCURRED BY SUCH PERSON AS A RESULT OF
29 THE THEFT OF SUCH PERSON'S PERSONAL IDENTIFICATION AND ACCOUNT INFORMA-
30 TION THAT RESULTS FROM THE USE, OR ATTEMPTED USE, OF SUCH AUTOMATED
31 TELLER MACHINE, NOR MORE THAN FOUR TIMES SUCH SUM. SUCH SUM MAY BE SUED
32 FOR AND RECOVERED BY ANY PERSON FOR HIS OR HER BENEFIT USE AND BENEFIT
33 IN ANY COURT OF COMPETENT JURISDICTION.

34 S 807. SUSPENSION OR REVOCATION OF REGISTRATION. 1. AFTER NOTICE AND
35 HEARING, THE SUPERINTENDENT MAY FINE SUCH REGISTERED OPERATOR AND
36 SUSPEND OR REVOKE AN OPERATOR'S REGISTRATION IF HE OR SHE FINDS THAT:

37 (A) THROUGH A COURSE OF CONDUCT, THE REGISTERED OPERATOR HAS VIOLATED
38 ANY PROVISIONS OF THIS ARTICLE OR ANY OTHER APPLICABLE PROVISIONS OF
39 THIS CHAPTER, OR ANY RULE OR REGULATION PRESCRIBED BY THE SUPERINTENDENT
40 PURSUANT TO THIS ARTICLE OR OF ANY OTHER LAW, RULE OR REGULATION OF THIS
41 STATE OR THE FEDERAL GOVERNMENT;

42 (B) ANY FACT OR CONDITION EXISTS, WHICH IF IT HAD EXISTED AT THE TIME
43 OF THE ORIGINAL APPLICATION FOR SUCH REGISTRATION, WOULD HAVE WARRANTED
44 THE SUPERINTENDENT IN REFUSING ORIGINALLY TO ISSUE SUCH REGISTRATION; OR

45 (C) THE COMMISSION BY A REGISTERED OPERATOR OF A CRIME AGAINST THE
46 LAWS OF THIS STATE OR ANY OTHER STATE OR OF THE UNITED STATES INVOLVING
47 MORAL TURPITUDE OR FRAUDULENT OR DISHONEST DEALING, OR THE ENTRY OF A
48 FINAL JUDGMENT AGAINST A REGISTERED OPERATOR IN A CIVIL ACTION UPON
49 GROUNDS OF FRAUD, MISREPRESENTATION OR DECEIT.

50 2. PENDING AN INVESTIGATION OR A HEARING FOR THE SUSPENSION OR REVO-
51 CATION OF A REGISTRATION ISSUED TO AN OPERATOR PURSUANT TO THIS ARTICLE,
52 THE SUPERINTENDENT MAY TEMPORARILY SUSPEND SUCH REGISTRATION FOR A PERI-
53 OD NOT TO EXCEED NINETY DAYS, PROVIDED THE SUPERINTENDENT SHALL FIND
54 THAT SUCH A TEMPORARY SUSPENSION IS IN THE PUBLIC INTEREST.

55 3. ANY REGISTERED OPERATOR MAY SURRENDER ITS REGISTRATION CERTIFICATE
56 BY DELIVERING TO THE SUPERINTENDENT WRITTEN NOTICE THAT IT HEREBY

1 SURRENDERS SUCH CERTIFICATE, BUT SUCH SURRENDER SHALL NOT AFFECT SUCH
2 REGISTERED OPERATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED
3 PRIOR TO SUCH SURRENDER. IF SUCH SURRENDER IS MADE AFTER THE ISSUANCE BY
4 THE SUPERINTENDENT OF A STATEMENT OF CHARGES AND NOTICE OF HEARING, THE
5 SUPERINTENDENT MAY PROCEED AGAINST THE REGISTERED OPERATOR AS IF SUCH
6 SURRENDER HAD NOT TAKEN PLACE.

7 4. EVERY REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL REMAIN IN
8 FORCE AND EFFECT UNTIL THE SAME SHALL HAVE BEEN SURRENDERED, REVOKED OR
9 SUSPENDED IN ACCORDANCE WITH ANY OTHER PROVISIONS OF THIS ARTICLE, BUT
10 THE SUPERINTENDENT SHALL HAVE AUTHORITY TO REINSTATE A SUSPENDED REGIS-
11 TRATION CERTIFICATE OR TO ISSUE A NEW CERTIFICATE TO A REGISTERED OPERA-
12 TOR WHOSE REGISTRATION SHALL HAVE BEEN REVOKED IF NO FACT OR CONDITION
13 THEN EXISTS WHICH WOULD HAVE WARRANTED THE SUPERINTENDENT IN REFUSING
14 ORIGINALLY TO ISSUE SUCH REGISTRATION UNDER THIS ARTICLE.

15 5. WHENEVER THE SUPERINTENDENT SHALL REVOKE OR SUSPEND A REGISTRATION
16 ISSUED PURSUANT TO THIS ARTICLE, HE OR SHE SHALL FORTHWITH EXECUTE IN
17 DUPLICATE A WRITTEN ORDER TO THAT EFFECT. THE SUPERINTENDENT SHALL FILE
18 ONE COPY OF SUCH ORDER IN HIS OR HER OFFICE AND SHALL FORTHWITH SERVE
19 THE OTHER COPY UPON THE REGISTERED OPERATOR. ANY SUCH ORDER MAY BE
20 REVIEWED IN THE MANNER PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL
21 PRACTICE LAW AND RULES. SUCH APPLICATION FOR REVIEW AS AUTHORIZED PURSU-
22 ANT TO THIS SECTION MUST BE MADE WITHIN THIRTY DAYS FROM THE DATE OF
23 SUCH ORDER OF SUSPENSION OR REVOCATION.

24 S 808. REQUIRED DISCLOSURES TO CUSTOMERS. 1. DISCLOSURE OF PERTINENT
25 INFORMATION. A REGISTERED OPERATOR SHALL CLEARLY AND CONSPICUOUSLY
26 DISCLOSE ON A SIGN POSTED ON THE AUTOMATED TELLER MACHINE OR IN CLEAR
27 VIEW OF A CUSTOMER VIEWING SUCH MACHINE:

- 28 (A) THE NAME OF THE REGISTERED OPERATOR;
29 (B) A DISCLAIMER INDICATING THAT THE REGISTERED OPERATOR IS NOT A
30 BANKING INSTITUTION;
31 (C) THE NAME, ADDRESS, AND TWENTY-FOUR-HOUR TOLL-FREE TELEPHONE NUMBER
32 WHERE A CUSTOMER MAY DIRECT INQUIRIES OR COMPLAINTS;
33 (D) A STATEMENT THAT THE OPERATOR IS REGISTERED BY THE DEPARTMENT, AND
34 THE ADDRESS AND A TOLL-FREE TELEPHONE NUMBER OF THE DEPARTMENT WHERE
35 INQUIRIES OR COMPLAINTS MAY BE DIRECTED.

36 2. FEE DISCLOSURE. A REGISTERED OPERATOR SHALL NOT CHARGE A FEE FOR
37 USE OF AN AUTOMATED TELLER MACHINE UNLESS SUCH OPERATOR COMPLIES WITH
38 THE FEE DISCLOSURE REQUIREMENTS OF SECTION THREE HUNDRED NINETY-NINE-Y
39 OF THE GENERAL BUSINESS LAW, AS ADDED BY CHAPTER FOUR HUNDRED
40 NINETY-FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-NINE.

41 3. RECEIPT FOR TRANSACTION. AN AUTOMATED TELLER MACHINE SHALL PROVIDE
42 A RECEIPT FOR THE TRANSACTION THAT SHALL INCLUDE THE FOLLOWING INFORMA-
43 TION IN A CLEAR AND CONSPICUOUS MANNER:

- 44 (A) THE AMOUNT OF THE TRANSACTION;
45 (B) THE AMOUNT OF ANY FEE IMPOSED BY THE REGISTERED OPERATOR;
46 (C) THE TOTAL AMOUNT DEBITED TO THE CUSTOMER'S ACCOUNT, INCLUDING ANY
47 FEE IMPOSED BY THE REGISTERED OPERATOR;
48 (D) THE DATE AND TIME OF THE TRANSACTION;
49 (E) A NUMBER OR CODE THAT IDENTIFIES THE CUSTOMER AND THE ACCOUNT
50 ACCESSED IN A MANNER THAT ENSURES THE CUSTOMER'S PRIVACY; AND
51 (F) THE LOCATION, OR A NUMBER OR CODE THAT IDENTIFIES THE LOCATION,
52 OF THE AUTOMATED TELLER MACHINE.

53 S 809. RULES AND REGULATIONS. IN ADDITION TO SUCH POWERS AS MAY OTHER-
54 WISE BE PRESCRIBED BY THIS CHAPTER, THE SUPERINTENDENT IS HEREBY AUTHOR-
55 IZED AND EMPOWERED TO PROMULGATE REGULATIONS CONSISTENT WITH THE
56 PURPOSES OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO:

1 1. SUCH RULES AND REGULATIONS, IN CONNECTION WITH THE OPERATION OF
2 AUTOMATED TELLER MACHINES, AS MAY BE NECESSARY OR APPROPRIATE TO QUALIFY
3 THE TERMS AND CONDITIONS OF AGREEMENTS WITH OR CONTRACTS BETWEEN REGIS-
4 TERED OPERATORS AND SERVICE AGENTS OR PROCESSORS IN ORDER TO ENSURE THE
5 PROTECTION OF CUSTOMERS USING AUTOMATED TELLER MACHINES IN THIS STATE;

6 2. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
7 DEFINE IMPROPER OR FRAUDULENT PRACTICES AND OPERATIONAL AND PERFORMANCE
8 STANDARDS APPLICABLE TO THE ACTIVITIES OF REGISTERED OPERATORS AND
9 REGISTERED NETWORKS FOR THE PURPOSE OF PREVENTING, AMONG OTHER CRIMINAL
10 ACTS, THE OCCURRENCE OF MONEY LAUNDERING AND CUSTOMER IDENTITY AND
11 ACCOUNT INFORMATION THEFT;

12 3. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
13 REQUIRE REGISTERED OPERATORS AND REGISTERED NETWORKS TO MAKE REPORTS OF
14 INFORMATION IN SUCH FORM AND UPON SUCH DATES AS PRESCRIBED BY THE SUPER-
15 INTENDENT; AND

16 4. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
17 INTERPRET, IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS ARTICLE.

18 S 810. SEVERABILITY. IF ANY WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH,
19 SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPE-
20 TENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR
21 OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERA-
22 TION TO THE WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART
23 THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH JUDGMENT SHALL
24 HAVE BEEN RENDERED.

25 S 2. Section 22 of the banking law, as amended by chapter 553 of the
26 laws of 2007, is amended to read as follows:

27 S 22. Fingerprints. (a) Notwithstanding any other provision of law,
28 every applicant for a license, authorization or registration under arti-
29 cles nine, nine-A, eleven-B, twelve-B, twelve-C, twelve-D, twelve-E
30 [and], thirteen-B AND FOURTEEN-A of this chapter and every applicant
31 filing an application to acquire control of any licensee or registrant,
32 as the case may be, under such articles shall submit simultaneously with
33 an application, his or her fingerprints in such form and in such manner
34 as specified by the division of criminal justice services, but in any
35 event, no less than two digit imprints. The superintendent shall submit
36 such fingerprints to the division of criminal justice services for the
37 purpose of conducting a criminal history search and returning a report
38 thereon in accordance with the procedures and requirements established
39 by the division pursuant to the provisions of article thirty-five of the
40 executive law, which shall include the payment of the prescribed proc-
41 essing fees. The superintendent shall request that the division submit
42 such fingerprints to the federal bureau of investigation, together with
43 the processing fees prescribed by such bureau, for the purpose of
44 conducting a criminal history search and returning a report thereon. An
45 applicant OR REGISTRANT shall not be required to submit his or her fing-
46 erprints as required by this subdivision if such applicant OR REGISTRANT
47 (i) is already subject to regulation by the department and the applicant
48 OR REGISTRANT has submitted such fingerprints to the department, such
49 fingerprints have been submitted to the division of criminal justice
50 services for the purpose of conducting a criminal history search, and a
51 report of such search has been received by the department from such
52 division; or (ii) is subject to regulation by a federal bank regulatory
53 agency and has submitted such fingerprints to such agency which has had
54 a criminal history search conducted of such individual and has shared
55 such information or its determination resulting from such search with
56 the department; or (iii) is an officer or stockholder of a corporation

1 whose common or preferred stock is registered on a national securities
2 exchange, as provided in an act of congress of the United States enti-
3 tled the "Securities Exchange Act of 1934", approved June sixth, nine-
4 teen hundred thirty-four, as amended, or such other exchange or market
5 system as the superintendent shall approve by regulation, and has
6 submitted such fingerprints to such exchange or market system which has
7 had a criminal history search conducted of such individual and has
8 shared such information or its determination resulting from such search
9 with the department; provided, however, that the superintendent may
10 subsequently require such applicant OR REGISTRANT to submit his or her
11 fingerprints if the superintendent has a reasonable basis for updating
12 the information or determination resulting from the report of the crimi-
13 nal history search conducted at the request of such federal banking
14 agency, exchange or market system.

15 (b) The superintendent shall also, concurrent with an investigation of
16 a licensee or registrant, or an authorized individual, pertaining to a
17 violation of this chapter, submit such fingerprints to the division of
18 criminal justice services for the purpose of conducting a criminal
19 history search and returning a report thereon and through the division
20 to the federal bureau of investigation for the purpose of a fingerprint
21 check of such licensee, registrant or authorized individual.

22 (c) For purposes of this section, "applicant" OR "REGISTRANT" shall
23 include a natural person or such principal, officer, director, trustee
24 or stockholder of any other entity as may be designated by the super-
25 intendent. Notwithstanding any other provision of this article, the
26 superintendent shall not access criminal history data or information,
27 unless any agency from which the superintendent receives directly crimi-
28 nal history data or information has entered into a use and dissemination
29 agreement with the superintendent consistent with the provisions of this
30 section.

31 S 3. Subdivisions 1, 2 and 5 of section 39 of the banking law, as
32 amended by chapter 123 of the laws of 2009, are amended to read as
33 follows:

34 1. To appear and explain an apparent violation. Whenever it shall
35 appear to the superintendent that any banking organization, bank holding
36 company, registered mortgage broker, licensed mortgage banker, regis-
37 tered mortgage loan servicer, licensed mortgage loan originator,
38 licensed lender, licensed casher of checks, REGISTERED OPERATOR OF AUTO-
39 MATED TELLER MACHINES, REGISTERED NETWORK, licensed sales finance compa-
40 ny, licensed insurance premium finance agency, licensed transmitter of
41 money, licensed budget planner, out-of-state state bank that maintains a
42 branch or branches or representative or other offices in this state, or
43 foreign banking corporation licensed by the superintendent to do busi-
44 ness or maintain a representative office in this state has violated any
45 law or regulation, he or she may, in his or her discretion, issue an
46 order describing such apparent violation and requiring such banking
47 organization, bank holding company, registered mortgage broker, licensed
48 mortgage banker, licensed mortgage loan originator, licensed lender,
49 licensed casher of checks, REGISTERED OPERATOR OF AUTOMATED TELLER
50 MACHINES, REGISTERED NETWORK, licensed sales finance company, licensed
51 insurance premium finance agency, licensed transmitter of money,
52 licensed budget planner, out-of-state state bank that maintains a branch
53 or branches or representative or other offices in this state, or foreign
54 banking corporation to appear before him or her, at a time and place
55 fixed in said order, to present an explanation of such apparent
56 violation.

1 2. To discontinue unauthorized or unsafe and unsound practices. When-
2 ever it shall appear to the superintendent that any banking organiza-
3 tion, bank holding company, registered mortgage broker, licensed mort-
4 gage banker, registered mortgage loan servicer, licensed mortgage loan
5 originator, licensed lender, licensed casher of checks, REGISTERED OPER-
6 ATOR OF AUTOMATED TELLER MACHINES, REGISTERED NETWORK, licensed sales
7 finance company, licensed insurance premium finance agency, licensed
8 transmitter of money, licensed budget planner, out-of-state state bank
9 that maintains a branch or branches or representative or other offices
10 in this state, or foreign banking corporation licensed by the super-
11 intendent to do business in this state is conducting business in an
12 unauthorized or unsafe and unsound manner, he or she may, in his or her
13 discretion, issue an order directing the discontinuance of such unau-
14 thorized or unsafe and unsound practices, and fixing a time and place at
15 which such banking organization, bank holding company, registered mort-
16 gage broker, licensed mortgage banker, registered mortgage loan servi-
17 cer, licensed mortgage loan originator, licensed lender, licensed casher
18 of checks, REGISTERED OPERATOR OF AUTOMATED TELLER MACHINES, REGISTERED
19 NETWORK, licensed sales finance company, licensed insurance premium
20 finance agency, licensed transmitter of money, licensed budget planner,
21 out-of-state state bank that maintains a branch or branches or represen-
22 tative or other offices in this state, or foreign banking corporation
23 may voluntarily appear before him or her to present any explanation in
24 defense of the practices directed in said order to be discontinued.

25 5. To keep books and accounts as prescribed. Whenever it shall appear
26 to the superintendent that any banking organization, bank holding compa-
27 ny, registered mortgage broker, licensed mortgage banker, registered
28 mortgage loan servicer, licensed mortgage loan originator, licensed
29 lender, licensed casher of checks, REGISTERED OPERATOR OF AUTOMATED
30 TELLER MACHINES, REGISTERED NETWORK, licensed sales finance company,
31 licensed insurance premium finance agency, licensed transmitter of
32 money, licensed budget planner, agency or branch of a foreign banking
33 corporation licensed by the superintendent to do business in this state,
34 does not keep its books and accounts in such manner as to enable him or
35 her to readily ascertain its true condition, he or she may, in his or
36 her discretion, issue an order requiring such banking organization, bank
37 holding company, registered mortgage broker, licensed mortgage banker,
38 registered mortgage loan servicer, licensed mortgage loan originator,
39 licensed lender, licensed casher of checks, REGISTERED OPERATOR OF AUTO-
40 MATED TELLER MACHINES, REGISTERED NETWORK, licensed sales finance compa-
41 ny, licensed insurance premium finance agency, licensed transmitter of
42 money, licensed budget planner, or foreign banking corporation, or the
43 officers or agents thereof, or any of them, to open and keep such books
44 or accounts as he or she may, in his or her discretion, determine and
45 prescribe for the purpose of keeping accurate and convenient records of
46 its transactions and accounts.

47 S 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
48 as amended by chapter 123 of the laws of 2009 and as further amended by
49 section 104 of part A of chapter 62 of the laws of 2011, is amended to
50 read as follows:

51 (a) Without limiting any power granted to the superintendent under any
52 other provision of this chapter, the superintendent may, in a proceeding
53 after notice and a hearing, require any safe deposit company, licensed
54 lender, licensed casher of checks, licensed sales finance company,
55 licensed insurance premium finance agency, licensed transmitter of
56 money, licensed mortgage banker, registered mortgage broker, REGISTERED

1 OPERATOR OF AUTOMATED TELLER MACHINES, REGISTERED NETWORK, licensed
2 mortgage loan originator, registered mortgage loan servicer or licensed
3 budget planner to pay to the people of this state a penalty for any
4 violation of this chapter, any regulation promulgated thereunder, any
5 final or temporary order issued pursuant to section thirty-nine of this
6 article, any condition imposed in writing by the superintendent [or
7 superintendent of financial services] in connection with the grant of
8 any application or request, or any written agreement entered into with
9 the superintendent.

10 S 5. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law; provided that the superintendent of finan-
12 cial services is authorized to promulgate any and all rules and regu-
13 lations and take any other measures necessary to implement this act on
14 its effective date on or before such date, including providing for the
15 registration of current operators of automated teller machines and
16 networks as defined pursuant to this act on or before June 1, 2013.