

4612--A

2011-2012 Regular Sessions

I N   S E N A T E

April 13, 2011

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Introduced by Sens. GRIFFO, AVELLA -- 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 the exercise of federally permitted powers by a state chartered banking institution

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

1     Section 1. Subdivision 3 of section 12-a of the banking law, as  
2     amended by section 88 of part A of chapter 62 of the laws of 2011, is  
3     amended to read as follows:  
4     3. Except with respect to a federally permitted power approved pursu-  
5     ant to subdivision four of this section, prior to any state chartered  
6     banking institution initially exercising any federally permitted power  
7     pursuant to this section, such banking institution shall make an appli-  
8     cation individually or with one or more state chartered banking insti-  
9     tutions to the superintendent indicating that such institution or insti-  
10    tutions intend to exercise such federally permitted power and the basis  
11    on which such institution or institutions believe such power is a feder-  
12    ally permitted power. THE SUPERINTENDENT SHALL HAVE ONE HUNDRED TWENTY  
13    DAYS FROM RECEIPT OF THE APPLICATION TO DETERMINE WHETHER IT MEETS THE  
14    REQUIREMENTS OF THIS SECTION, PROVIDED THAT SUCH PERIOD MAY BE EXTENDED  
15    FOR AN ADDITIONAL PERIOD OF TIME WITH THE WRITTEN CONSENT OF THE APPLI-  
16    CANT OR APPLICANTS. If such application meets the requirements of this  
17    section, the superintendent shall post such application upon the bulle-  
18    tin board of the department pursuant to section forty-two of this arti-  
19    cle. [After promptly reviewing such application, the] IF SUCH APPLICA-  
20    TION DOES NOT MEET THE REQUIREMENTS OF THIS SECTION, THE SUPERINTENDENT  
21    SHALL, WITHIN TEN DAYS OF SUCH DETERMINATION, NOTIFY THE APPLICANT OR  
22    APPLICANTS OF THE REASONS WHY THE APPLICATION FAILS TO MEET THE REQUIRE-  
23    MENTS. THE superintendent shall determine, consistent with the standards

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

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1 set forth in subdivision five of this section, whether to approve such  
2 application subject to such terms and conditions as the superintendent  
3 may deem appropriate, in the superintendent's sole discretion. Such  
4 determination, shall be made by the superintendent within forty-five  
5 days after the posting of such application [by the superintendent],  
6 provided however that the superintendent may notify the applicant or  
7 applicants that the review of the application shall be extended for an  
8 additional period of time not exceeding [one hundred twenty] SIXTY days  
9 after the posting of such application, and provided further that such  
10 period of time may be extended for an additional period of time with the  
11 written consent of the applicant or applicants. The superintendent shall  
12 not act upon the application prior to thirty days after such application  
13 has been posted. [If the superintendent shall determine not to approve  
14 of such application, the superintendent shall notify the applicant or  
15 applicants in writing that the applicant or applicants may not exercise  
16 such federally permitted power.] If the superintendent approves such  
17 application, the superintendent shall, WITHIN TEN DAYS OF APPROVING THE  
18 APPLICATION, notify the applicant or applicants in writing thereof, and  
19 the applicant or applicants may exercise such federally permitted power  
20 subject to such terms and conditions as the superintendent may have  
21 approved. IF THE SUPERINTENDENT DECLINES SUCH APPLICATION, THE SUPER-  
22 INTENDENT SHALL, WITHIN TEN DAYS OF MAKING SUCH DETERMINATION, NOTIFY  
23 THE APPLICANT OR APPLICANTS IN WRITING THEREOF. AN APPLICANT OR APPLI-  
24 CANTS MAY, UPON THE SUPERINTENDENT'S FAILURE TO COMPLY WITH THIS  
25 SECTION, PETITION THE SUPERINTENDENT TO ACT UPON THE APPLICATION. THE  
26 FAILURE OF THE SUPERINTENDENT TO ACT UPON THE APPLICATION OR NOTIFY THE  
27 APPLICANT OR APPLICANTS, IN WRITING, AS TO THE REASONS WHY ACTION CANNOT  
28 BE TAKEN WITHIN THIRTY DAYS OF RECEIPT OF SUCH PETITION SHALL BE DEEMED  
29 A DENIAL OF THE APPLICATION, WHICH SHALL BE SUBJECT TO JUDICIAL REVIEW.  
30 Notwithstanding any other law, the superintendent may make the approval  
31 of an application under this section applicable to one or more addi-  
32 tional state chartered banking institutions that are qualified to exer-  
33 cise the same federally permitted powers as the applicant or applicants  
34 pursuant to subdivision two of this section, subject to such terms and  
35 conditions as the superintendent shall find necessary and appropriate.

36 S 2. This act shall take effect immediately, provided, however, that  
37 the amendments to subdivision 3 of section 12-a of the banking law made  
38 by section one of this act shall not affect the repeal of such section  
39 and shall be deemed repealed therewith.