

2933

2013-2014 Regular Sessions

I N   S E N A T E

January 25, 2013

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Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to electronic preservation of banking records

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 section 36-b to  
2 read as follows:

3     S 36-B. PRESERVATION OF BOOKS AND RECORDS. WHEN ANY PROVISION OF THIS  
4 CHAPTER OR ANY RULE OR REGULATION ADOPTED PURSUANT THERETO REQUIRES THAT  
5 BOOKS AND RECORDS BE PRESERVED, SUCH REQUIREMENT MAY BE SATISFIED BY  
6 MAINTENANCE OF ORIGINAL PAPERS OR OTHER RECORDS, PHOTOGRAPHIC REPROD-  
7 UCTIONS, OR RECORDS STORED IN ELECTRONIC STORAGE MEDIA. AS USED IN THIS  
8 CHAPTER, "ELECTRONIC STORAGE MEDIA" MEANS ANY DIGITAL STORAGE MEDIUM OR  
9 SYSTEM THAT MEETS THE FOLLOWING CONDITIONS:

10     1. IT MUST PRESERVE THE RECORDS EXCLUSIVELY IN NON-REWRITABLE, NON-ER-  
11 ASABLE FORMAT;

12     2. IT MUST VERIFY AUTOMATICALLY THE QUALITY AND ACCURACY OF THE STOR-  
13 AGE MEDIA RECORDING PROCESS;

14     3. IT MUST HAVE THE CAPACITY TO READILY DOWNLOAD INDEXES AND RECORDS  
15 PRESERVED ON THE ELECTRONIC STORAGE MEDIA TO ANY MEDIUM ACCEPTABLE TO  
16 THE SUPERINTENDENT; AND

17     4. IT MUST BE IMMEDIATELY READABLE ON EQUIPMENT AT ALL TIMES AVAILABLE  
18 TO THE SUPERINTENDENT FOR EXAMINATION OF SUCH RECORDS.

19     S 2. Subdivision 1 of section 75-g of the banking law, as added by  
20 chapter 9 of the laws of 1996 and as designated by section 4-a of part A  
21 of chapter 57 of the laws of 1998, is amended to read as follows:

22     [1.] Within one year after the effective date of this article, and  
23 each year thereafter, every banking institution which has an automated  
24 teller machine facility which is in operation on such date and such date  
25 every year thereafter shall submit a written report to the department on

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

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1 a form prescribed by the superintendent, certifying that such automated  
2 teller machine facility is in compliance with the provisions of this  
3 article or any variance or exemption that has been granted, or if such  
4 facility is not in compliance with such provisions, such report shall  
5 state the manner in which such facility fails to meet such requirements,  
6 the reasons for such non-compliance and a plan to remedy any such non-  
7 compliance. NOTWITHSTANDING ARTICLE THREE OF THE STATE TECHNOLOGY LAW  
8 OR ANY OTHER LAW TO THE CONTRARY, THE SUPERINTENDENT MAY REQUIRE THAT  
9 ANY REPORTS REQUIRED BY THIS SUBDIVISION BE MADE BY ELECTRONIC MEANS IF  
10 HE OR SHE DEEMS IT NECESSARY TO ENSURE THE EFFICIENT AND EFFECTIVE  
11 ADMINISTRATION OF THIS ARTICLE.

12 S 3. Section 576 of the banking law is amended by adding a new subdi-  
13 vision 4 to read as follows:

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

18 S 4. This act shall take effect on the ninetieth day after it shall  
19 have become a law.