

# STATE OF NEW YORK

672

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

Introduced by M. of A. RODRIGUEZ -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to enacting the "community financial services access and modernization act of 2017"; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known as and may be cited as  
2 the "community financial services access and modernization act of 2017".  
3 § 2. Paragraph (b) of subdivision 5 of section 18-a of the banking  
4 law, as amended by chapter 155 of the laws of 2012, is amended to read  
5 as follows:

6 (b) two thousand dollars when the application relates to the licensing  
7 of an additional location or change of location or the licensing of a  
8 ~~[mobile unit]~~ limited station of a licensed ~~[cashier of checks]~~ financial  
9 services provider; or

10 § 3. The third undesignated paragraph of section 340 of the banking  
11 law, as added by chapter 22 of the laws of 1990, is amended to read as  
12 follows:

13 Nothing in this article shall apply to licensed collateral loan  
14 brokers or licensed financial services providers.

15 § 4. Section 366 of the banking law, as amended by chapter 49 of the  
16 laws of 1961, subdivision 1 as amended by chapter 849 of the laws of  
17 1964 and as further amended by section 104 of part A of chapter 62 of  
18 the laws of 2011, subdivisions 2 and 3 as renumbered by chapter 132 of  
19 the laws of 1969, is amended to read as follows:

20 § 366. Definitions. When used in this article. 1. The term "licensed  
21 ~~[cashier of checks]~~ financial services provider" means any ~~[individual,~~  
22 ~~partnership, unincorporated association or corporation]~~ person duly  
23 licensed by the superintendent of financial services to engage in busi-  
24 ness pursuant to the provisions of this article.

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

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2. The term "licensee" means a person licensed ~~[casher of checks, drafts and/or money orders]~~ to provide financial services regulated by this article.

3. The term ~~["mobile unit"]~~ "limited station" means any vehicle or other movable means from which the business of ~~[cashing checks, drafts or money orders]~~ providing financial services regulated by this article is to be conducted.

4. The term "person" means any individual or other legal entity, including any corporation, partnership, association or limited liability company.

5. The term "conduit services" means any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank, trust company, savings bank, savings and loan association or credit union subject to the approval of the superintendent, provided no conduit services under this section shall be approved, which exceed prevailing usury provisions in state law, including but not limited to:

(a) business and commercial loans offered by licensees that are licensed under article nine of this chapter provided, however, that prior to making a loan directly, a licensee is required to offer and process a loan from a collaborating bank or credit union with the licensee under this section that may provide a more favorable rate and/or terms to the prospective borrower;

(b) account access services;

(c) bill payment services; and

(d) assistance in preparation and submission of forms to be processed by the collaborating bank or credit union.

6. The term "financial services" means offering or providing any of the following financial products or services: (a) the cashing of checks, drafts and/or money orders,

(b) money transmission services as defined in article thirteen-B of this chapter, provided, however, a licensed financial services provider offering money transmission pursuant to article thirteen-B of this chapter, other than as an agent of a licensee, shall first obtain a license under that article,

(c) bill payment services,

(d) the sale of prepaid debit cards; and

(e) conduit services as defined in this article.

7. The term "master license" shall mean an original license issued by the superintendent that authorizes a person to engage in the business of cashing of checks and related financial services, and in the case of a licensee who has multiple licensed business locations at the time of the effective date of this subdivision, the initial longest site continuously licensed under this article.

8. The term "supplemental license" shall mean a license issued by the superintendent that authorizes a person having a master license to engage in the business of cashing of checks and related financial services at branch locations, and in the case of a licensee who has multiple licensed business locations at the time of the effective date of this subdivision, any license issued to an existing licensee after the license for the original site.

§ 5. Section 367 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 3 as amended by section 7 of part D-1 of chapter 109 of the laws of 2006, subdivision 4 as amended by chapter 96 of the laws of 1981, is amended to read as follows:

§ 367. License requirements; fees; capital requirements. 1. No person~~[, partnership, association or corporation]~~ shall engage in the business of cashing checks, drafts or money orders for a consideration without first obtaining a license from the superintendent.

2. Application for such license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the name, and the address both of the residence and place of business, of the applicant, and if the applicant is a co-partnership ~~[or]~~ association or limited liability company, of every member thereof, and if a corporation, of each officer and director thereof; also, if the business is to be conducted at a specific address, the address at which the business is to be conducted, and if the business is to be conducted from a ~~[mobile-unit]~~ limited station, the New York state registration number or other identification of such ~~[mobile-unit]~~ limited station and the area in which the applicant proposes to operate such ~~[mobile-unit]~~ limited station; and also such further information as the superintendent may require.

3. Such applicant at the time of making such application shall pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for investigating the application. An application for a master license shall be in writing, under oath, and in the form prescribed by the superintendent and shall contain such information as the superintendent may require by regulation. The application shall set forth all of the locations at which the applicant seeks to conduct business hereunder. At the time of making the application for a master license, an existing licensee under this article shall pay to the superintendent the sum of two hundred fifty dollars for each proposed location as a fee for investigating the application. An applicant that does not currently hold a license under this article at the time of application shall pay to the superintendent an application fee as provided in this chapter for initial applications. Any licensee requesting a change of address, shall at the time of making such request, pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for investigating the new address; provided, however, that the superintendent may, in his or her discretion, waive such investigation fee if warranted, and provided further, that no fee shall be payable for the relocation of a limited station.

4. Every applicant shall prove, in form satisfactory to the superintendent that he or it has available for the operation of such business, for each location and for each ~~[mobile-unit]~~ limited station specified in the application, liquid assets of at least ten thousand dollars, and every licensee shall continuously maintain for the operation of such business for each location and for each ~~[mobile-unit]~~ limited station liquid assets of at least ten thousand dollars. Notwithstanding the foregoing provisions of this subdivision, the superintendent, upon application by an applicant and for good cause shown, may permit a reduction from ten thousand dollars to not less than five thousand dollars of minimum liquid assets required for each location.

§ 6. Section 369 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 1 as amended by chapter 233 of the laws of 2005, subdivisions 4 and 5 as amended by chapter 132 of the laws of 1969, subdivision 6 as amended by chapter 164 of the laws of 2003, paragraph (b) of subdivision 6 as amended by section 6 of part LL of chapter 56 of the laws of 2010, and subdivision 7 as added by chapter 485 of the laws of 1947, is amended to read as follows:

1     § 369. Conditions precedent to issuing license; issuance and filing of  
2     license; posting license. 1. If the superintendent shall find that the  
3     financial responsibility, experience, character, and general fitness of  
4     the applicant, and of the members thereof if the applicant be a co-part-  
5     nership ~~[or]~~, association or limited liability company, and of the offi-  
6     cers and directors thereof if the applicant be a corporation, are such  
7     as to command the confidence of the community and to warrant belief that  
8     the business will be operated honestly, fairly, and efficiently within  
9     the purposes of this article, and if the superintendent shall find that  
10    the granting of such application will promote the convenience and advan-  
11    tage of the area in which such business is to be conducted, and if the  
12    superintendent shall find that the applicant has available for the oper-  
13    ation of such business for each location and for each ~~[mobile unit]~~  
14    limited station specified in the application liquid assets of at least  
15    ten thousand dollars, the superintendent shall thereupon execute a  
16    master license and if applicable one or more supplemental licenses in  
17    duplicate to permit the ~~[cashing of checks, drafts and money orders]~~  
18    delivery of financial services in accordance with the provisions of this  
19    article at the location or locations or in the area or areas specified  
20    in such application. In finding whether the application will promote the  
21    convenience and advantage to the public, the superintendent shall deter-  
22    mine whether there is a community need for a new licensee in the  
23    proposed area or areas to be served. No license shall be issued to an  
24    applicant for a license, at a location to be licensed which is closer  
25    than one thousand five hundred eighty-four feet (three-tenths of a mile)  
26    from an existing licensee, except with the written consent of such  
27    existing licensee or pursuant to subdivision three of section three  
28    hundred seventy of this article, subject to any restriction or condition  
29    as the superintendent may promulgate by regulation; provided, however,  
30    the superintendent may permit a location to be licensed that is closer  
31    than three-tenths of a mile from an existing licensee provided such  
32    applicant engages in the cashing of checks, drafts or money orders only  
33    for payees of such checks, drafts or money orders that are other than  
34    natural persons at the location to be licensed and such applicant was  
35    engaged in the cashing of such checks, drafts or money orders for payees  
36    that are other than natural persons at such location on or before the  
37    fourteenth day of July, two thousand four, and provided further that  
38    upon licensing any such location by the superintendent, such license as  
39    it pertains solely to such location shall not be affected thereafter by  
40    any change of control of such license pursuant to section three hundred  
41    seventy-a of this article, provided that the licensee continues there-  
42    after to engage at that location in the cashing of checks, drafts or  
43    money orders only for payees that are other than natural persons and  
44    provided further that such license shall bear a legend stating that such  
45    location is restricted to the cashing of checks, drafts or money orders  
46    only for payees that are other than natural persons. The three-tenths of  
47    a mile distance requirement as set forth in this section shall not apply  
48    in cases where the existing licensee is a restricted location as author-  
49    ized in the preceding sentence, or is any other licensed location that  
50    engages solely in the cashing of checks, drafts or money orders only for  
51    payees that are other than natural persons. For purposes of this  
52    section, such distance shall be measured on a straight line along the  
53    street between the nearest point of the store fronts of the check cash-  
54    ing facilities. The primary business of the licensee, at the location to  
55    be licensed, shall be financial services. The superintendent shall tran-  
56    smitt one copy of such license to the applicant and file another in the

1 office of the department. Notwithstanding the foregoing provisions of  
2 this subdivision, the superintendent, upon application by an applicant  
3 and for good cause shown, may permit a reduction from ten thousand  
4 dollars to not less than five thousand dollars of minimum liquid assets  
5 required for each location.

6 2. Such license shall state the name of the licensee; and if the  
7 licensee is a co-partnership ~~[or]~~, association, or limited liability  
8 company, the names of the members thereof; and if the licensee is a  
9 corporation, the date of its incorporation; and if the business is to be  
10 conducted at a specific address, the address at which such business is  
11 to be conducted; and if the business is to be conducted through the use  
12 of a ~~[mobile-unit]~~ limited station, the New York state registration  
13 number or other identification of such ~~[mobile-unit]~~ limited station and  
14 the area in which such ~~[mobile-unit]~~ limited station is authorized to do  
15 business.

16 3. ~~[Such license]~~ All licenses issued by the superintendent shall be  
17 kept conspicuously posted in the place of business of the licensee or,  
18 in the case of a ~~[mobile-unit]~~ limited station, upon such ~~[mobile-unit]~~  
19 limited station. Such license shall not be transferable or assignable.

20 4. Such license shall remain in full force and effect until it is  
21 surrendered by the licensee or revoked or suspended as provided in this  
22 article. In the case of a change of control of a location or a business  
23 licensed hereunder, the licensee approved to acquire the business or  
24 location may utilize a true copy of the existing license pending the  
25 issuance of a new license by the superintendent.

26 5. If the superintendent shall find that the applicant fails to meet  
27 any of the conditions set forth in subdivision one of this section, he  
28 or she shall not issue such license, and he or she shall notify the  
29 applicant of the denial. If an application is denied or withdrawn, the  
30 superintendent shall retain the investigation fee to cover the costs of  
31 investigating the application and return the license fee to the appli-  
32 cant.

33 6. The superintendent may refuse to issue a license pursuant to this  
34 article if he or she shall find that the applicant, or any person who is  
35 a director, officer, partner, agent, employee or substantial stockholder  
36 of the applicant, (a) has been convicted of a crime in any jurisdiction  
37 or (b) is associating or consorting with any person who has, or persons  
38 who have, been convicted of a crime or crimes in any jurisdiction or  
39 jurisdictions; provided, however, that the superintendent shall not  
40 issue such a license if he or she shall find that the applicant, or any  
41 person who is a director, officer, partner, agent, employee or substan-  
42 tial stockholder of the applicant, has been convicted of a felony in any  
43 jurisdiction or of a crime which, if committed within this state, would  
44 constitute a felony under the laws thereof. For the purposes of this  
45 article, a person shall be deemed to have been convicted of a crime if  
46 such person shall have pleaded guilty to a charge thereof before a court  
47 or magistrate, or shall have been found guilty thereof by the decision  
48 or judgment of a court or magistrate or by the verdict of a jury, irre-  
49 spective of the pronouncement of sentence or the suspension thereof,  
50 unless such plea of guilty, or such decision, judgment or verdict, shall  
51 have been set aside, reversed or otherwise abrogated by lawful judicial  
52 process or unless the person convicted of the crime shall have received  
53 a pardon therefor from the president of the United States or the gover-  
54 nor or other pardoning authority in the jurisdiction where the  
55 conviction was had, or shall have received a certificate of relief from  
56 disabilities or a certificate of good conduct pursuant to article twen-

ty-three of the correction law to remove the disability under this article because of such conviction. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

7. No license pursuant to this article shall be issued to any applicant to do business at the place specified in the application as the place where the business is to be conducted if, within the twelve months preceding such application, a license to engage in business pursuant to this article at such place shall have been revoked.

§ 7. Section 370 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 2 as amended by section 38 of part 0 of chapter 59 of the laws of 2006 and subdivision 3 as amended by chapter 703 of the laws of 2006, is amended to read as follows:

§ 370. Restrictions as to place or area of doing business; establishment of stations; change of location. 1. No more than one place of business or one ~~[mobile unit]~~ limited station shall be maintained under the same license; provided, however, that more than one license may be issued to the same licensee ~~[upon compliance with the provisions of this article for each new license]~~ and if the superintendent determines that an existing licensee is in good standing and in compliance with the provisions of this article, a subsequent application for a second or multiple supplemental licenses at different, separate and additional locations shall be expedited by the superintendent provided the minimum liquidity requirements and community need criteria set forth in section three hundred sixty-nine of this article have been demonstrated in the application for the additional location or locations.

2. Any licensed ~~[cashier of checks]~~ financial services provider may open and maintain, within this state, one or more limited stations for the purpose of cashing checks, drafts or money orders for the particular group or groups specified in the license authorizing each such station. Such stations shall be licensed pursuant to and be subject to all the provisions of this chapter applicable to licensed cashiers of checks, except that (a) ~~[such station shall not be subject to the distance limitation set forth in subdivision one of section three hundred sixty-nine of this article, (b)]~~ the fee for investigating the application for a station shall be as prescribed pursuant to section eighteen-a of this chapter, and ~~[(c)]~~ (b) where such a station is at the premises of a specified employer for the purpose of cashing checks, drafts and money orders for the employees of such employer, the fees and charges for cashing such checks, drafts or money orders shall not be subject to the limitations of subdivision one of section three hundred seventy-two of this article if such fees and charges are paid by such employer.

3. A licensee may make a written application to the superintendent for leave to change his or her place of business, or in the case of a ~~[mobile unit]~~ limited station, the area in which such unit is authorized to be operated, stating the reasons for such proposed change and in the case where the applicant currently holds a master license to operate a business established under this article, the superintendent shall streamline and reduce the information required from such applicant. Such

1 application may be approved for relocation from a site within three-  
2 tenths of a mile of another licensee to another site within three-tenths  
3 of a mile of such other licensee provided that such new site is farther  
4 from such existing licensee than the site from which permission to relo-  
5 cate is sought. Only in situations in which a licensee seeks to change  
6 its place of business due to extraordinary circumstances, as may be  
7 determined by the superintendent pursuant to regulations, may the super-  
8 intendent, in his or her discretion, determine that an application may  
9 be approved for relocation from a site within three-tenths of a mile of  
10 another licensee to a new site which is closer to such existing licensee  
11 than the site from which permission to relocate is sought. Notwithstand-  
12 ing any other provision of this subdivision, a licensee may relocate  
13 from any location to a location that is within three-tenths of a mile  
14 from another licensee with the written consent of the other licensee. If  
15 the superintendent approves such application he or she shall issue a new  
16 license in duplicate in accordance with the provisions of section three  
17 hundred sixty-nine of this article, stating the new location of such  
18 licensee or, in the case of a [~~mobile-unit~~] limited station, the new  
19 area in which such [~~mobile-unit~~] limited station may be operated.

20 § 8. Section 370-a of the banking law, as added by chapter 142 of the  
21 laws of 1992, subdivision 1 as amended by section 39 of part 0 of chap-  
22 ter 59 of the laws of 2006, is amended to read as follows:

23 § 370-a. Changes in control. 1. It shall be unlawful except with the  
24 prior approval of the superintendent for any action to be taken which  
25 results in a change of control of the business of a licensee. Prior to  
26 any change of control, the person desirous of acquiring control of the  
27 business of a licensee, if such person is not already a licensee under  
28 this article, shall make written application to the superintendent and  
29 pay an investigation fee as prescribed pursuant to section eighteen-a of  
30 this chapter to the superintendent. The application shall contain such  
31 information as the superintendent, by rule or regulation, may prescribe  
32 as necessary or appropriate, and in the case where the acquiring person  
33 currently holds a master license to operate a business established under  
34 this article, and in the case of a limited station license, the super-  
35 intendent shall streamline and reduce the information required from such  
36 applicant, for the purpose of making the determination required by  
37 subdivision two of this section.

38 2. The superintendent shall approve or disapprove the proposed change  
39 of control of a licensee in accordance with the provisions of subdivi-  
40 sions one and six of section three hundred sixty-nine of this article.  
41 The superintendent shall approve or disapprove the application in writ-  
42 ing within ninety days after the date the application is filed with the  
43 superintendent.

44 3. For a period of six months from the date of qualification thereof  
45 and for such additional period of time as the superintendent may  
46 prescribe, in writing, the provisions of subdivisions one and two of  
47 this section shall not apply to a transfer of control by operation of  
48 law to the legal representative, as hereinafter defined, of one who has  
49 control of a licensee. Thereafter, such legal representative shall  
50 comply with the provisions of subdivisions one and two of this section.  
51 The provisions of subdivisions one and two of this section shall be  
52 applicable to an application made under such section by a legal repre-  
53 sentative.

54 The term "legal representative", for the purposes of this section,  
55 shall mean one duly appointed by a court of competent jurisdiction to  
56 act as executor, administrator, trustee, committee, conservator or

1 receiver, including one who succeeds a legal representative and one  
2 acting in an ancillary capacity thereto in accordance with the  
3 provisions of such court appointment.

4 4. As used in this section: (a) the term "person" includes an individ-  
5 ual, partnership, corporation, association, limited liability company,  
6 or any other organization, and (b) the term "control" means the  
7 possession, directly or indirectly, of the power to direct or cause the  
8 direction of the management and policies of a licensee, whether through  
9 the ownership of voting stock of such licensee, the ownership of voting  
10 stock of any person which possesses such power or otherwise. Control  
11 shall be presumed to exist if any person, directly or indirectly, owns,  
12 controls or holds with power to vote ten per centum or more of the  
13 voting stock of any licensee or of any person which owns, controls or  
14 holds with power to vote ten per centum or more of the voting stock of  
15 any licensee, but no person shall be deemed to control a licensee solely  
16 by reason of being an officer or director of such licensee or person.  
17 The superintendent may in his or her discretion, upon the application of  
18 a licensee or any person who, directly or indirectly, owns, controls or  
19 holds with power to vote or seeks to own, control or hold with power to  
20 vote any voting stock of such licensee, determine whether or not the  
21 ownership, control or holding of such voting stock constitutes or would  
22 constitute control of such licensee for purposes of this section.

23 § 9. Section 371 of the banking law, as added by chapter 151 of the  
24 laws of 1945, is amended to read as follows:

25 § 371. Regulations. The superintendent is hereby authorized and  
26 empowered to make such rules and regulations, and such specific rulings,  
27 demands, and findings as he or she may deem necessary for the proper  
28 conduct of the business authorized and licensed under and for the  
29 enforcement of this article, in addition hereto and not inconsistent  
30 herewith.

31 § 10. Section 372 of the banking law, as amended by chapter 151 of the  
32 laws of 1945, the section heading and subdivision 1 as amended and  
33 subdivision 7 as added by chapter 432 of the laws of 2004, subdivisions  
34 2, 3, and 4 as added and subdivisions 5 and 6 as renumbered by chapter  
35 263 of the laws of 1983, and subdivision 6 as added by chapter 485 of  
36 the laws of 1947, is amended to read as follows:

37 § 372. Fees and charges; posting schedule; records and reports. 1. The  
38 superintendent shall, by regulation, establish the maximum fees which  
39 may be charged by licensees for cashing a check, draft, or money order.  
40 No licensee shall charge or collect any sum for cashing a check, draft,  
41 or money order in excess of that established by the superintendent's  
42 regulations; provided, however, that no maximum fee shall apply to the  
43 charging of fees by licensees for the cashing of checks, drafts or money  
44 orders for payees of such checks, drafts or money orders that are other  
45 than natural persons. The licensee shall pay to every customer tendering  
46 any check, draft or money order to be cashed, the entire face amount of  
47 such instrument, less any charges permitted by the superintendent, in  
48 such form and by such means as agreed upon by the customer on the same  
49 date upon which such instrument is presented.

50 2. The schedule of fees and charges permitted under this section shall  
51 be conspicuously and continuously posted in every location and [~~mobilit~~  
52 ~~unit~~] limited station licensed under this article. Whenever a licensee  
53 hereunder is authorized under this article to offer other financial  
54 services, the posting and signage requirements thereunder shall super-  
55 sede other signage requirements under this article.

1 3. No change in fees shall become effective earlier than thirty days  
2 after the superintendent shall notify the majority leader of the senate,  
3 the speaker of the assembly, and the chairmen of both the senate and  
4 assembly committees on banks of his or her intention to change fees.

5 4. The fees in effect immediately prior to the effective date of this  
6 subdivision shall continue to be the maximum allowable fees until  
7 revised by the superintendent's regulations.

8 5. Each licensee shall keep and use in its business such books,  
9 accounts, and records as the superintendent may require to carry into  
10 effect the provisions of this article and the rules and regulations made  
11 by the superintendent hereunder. Every licensee shall preserve such  
12 books, accounts and records for at least two years. A licensee shall be  
13 deemed to be in compliance with this requirement if the licensee main-  
14 tains all information related to the financial services transactions  
15 conducted by said licensee according to the provisions of section thir-  
16 ty-six-b of this chapter.

17 6. Before a licensee shall deposit with any banking organization, or  
18 with any organization engaged in the business of banking, a check, draft  
19 or money order cashed by such licensee, the same must be endorsed with  
20 the actual name under which such licensee is doing business and must  
21 have the words "licensed [~~casher of checks~~] financial services provider"  
22 legibly written or stamped immediately after or below such name.

23 7. Every licensee shall submit to the superintendent, or such person  
24 as the superintendent may designate, such suspicious activity reports or  
25 currency transaction reports as are required to be submitted to federal  
26 authorities pursuant to provisions of the Bank Secrecy Act (subchapter  
27 11, chapter 53, title 31, United States code) and regulations and admin-  
28 istrative orders related thereto, as amended, within the periods of time  
29 as required by such act and regulations. A licensee may submit a copy of  
30 any such report to the superintendent, or such person as the superinten-  
31 dent may designate, that is filed with such federal authorities. The  
32 superintendent may adopt such regulations or require such additional  
33 reports as he or she deems necessary to insure the effective enforcement  
34 of this subdivision.

35 § 11. Section 372-a of the banking law, as added by chapter 432 of the  
36 laws of 2004, is amended to read as follows:

37 § 372-a. Superintendent authorized to examine. 1. For the purpose of  
38 discovering violations of this article or securing information lawfully  
39 required in this section, the superintendent may at any time, and as  
40 often as may be determined, either personally or by a person duly desig-  
41 nated by the superintendent, investigate the [~~cashing of checks by~~  
42 ~~licensees~~] business practices of a licensee rendering financial services  
43 authorized by this article and examine the books, accounts, records, and  
44 files used therein of every licensee.

45 2. For the purpose established in subdivision one of this section, the  
46 superintendent and his or her duly designated representatives shall have  
47 free access to the offices and places of business, books, accounts,  
48 papers, records, files, safes and vaults of all such licensees. The  
49 superintendent shall have authority to require the attendance of and to  
50 examine under oath all persons whose testimony may be required relative  
51 to such cashing of checks or such business.

52 § 12. Subdivisions 1 and 2 of section 373 of the banking law, subdivi-  
53 sion 1 as amended by chapter 432 of the laws of 2004 and subdivision 2  
54 as amended by chapter 132 of the laws of 1969, are amended to read as  
55 follows:

1 1. No licensee shall engage in the business of making loans of money,  
2 credit, goods or things or discounting of notes, bills of exchange,  
3 checks, or other evidences of debt pursuant to the provisions of article  
4 nine of this chapter, nor shall a loan business or the negotiation of  
5 loans or the discounting of notes, bills of exchange, checks or other  
6 evidences of debt be conducted on the same premises where the licensee  
7 is conducting business pursuant to the provisions of this article.

8 Notwithstanding any other provision of this subdivision, a licensee may  
9 engage in the business of making business and commercial loans pursuant  
10 to this article provided the licensee has first obtained a license from  
11 the superintendent pursuant to article nine of this chapter; provided,  
12 however, no licensee shall make any loans to individuals for personal,  
13 family, household or investment purposes and in the case of an applica-  
14 tion for a loan from a business which is a sole proprietorship or part-  
15 nership, no loan may be extended except upon the written assurance from  
16 the borrower in a notarized document that the proceeds of such loan will  
17 be used solely for business or commercial purposes, and upon the reason-  
18 able determination by the lender that the loan is solely for business or  
19 commercial purposes, including but not limited to receipt of documenta-  
20 tion that the borrower is operating as a bona fide business operation.  
21 In order to assure that the business and commercial loans authorized  
22 under this article and article nine of this chapter are properly and  
23 solely made for commercial and business purposes, the superintendent  
24 shall develop and promulgate rules and regulations requiring such appli-  
25 cants to submit the underwriting criteria and processes and information  
26 verification methodology the licensee will utilize to evaluate the abil-  
27 ity of borrowers to repay the business or commercial loans and, addi-  
28 tionally the procedures such licensee will undertake to assure that sole  
29 proprietorships or partnerships business or commercial loans cannot be  
30 diverted by the borrower for personal, household, family or investment  
31 purposes. Except as otherwise provided by regulation of the superinten-

32 dent, all checks, drafts and money orders shall be deposited in the  
33 licensee's bank account not later than the first business day following  
34 the day on which they were cashed. No licensee shall at any time cash or  
35 advance any moneys on a post-dated check or draft or engage in the busi-  
36 ness of transmitting money or receiving money for transmission;  
37 provided, however, that a licensee may cash a check [~~payable on the~~  
38 ~~first banking business day following the date of cashing (a) if such~~  
39 ~~check is drawn by the United States, the state of New York, or any poli-~~  
40 ~~tical subdivision of the state of New York, or by any department,~~  
41 ~~bureau, agency, authority, instrumentality or officer, acting in his~~  
42 ~~official capacity, of the United States or of the state of New York or~~  
43 ~~of any political subdivision of the state of New York, or (b) if such~~  
44 ~~check is a payroll check drawn by an employer to the order of its~~  
45 ~~employee in payment for services performed by such employee]~~ without  
46 regard to the date imprinted on the check as long as the check is depos-  
47 ited in the licensee's bank account not later than the first business  
48 day following the day on which it was cashed. No licensee shall cash any

49 check, draft or money order if the face amount for which it is drawn is  
50 in excess of [~~fifteen~~] twenty-five thousand dollars; provided, however,  
51 that this restriction shall not apply to the cashing of checks, drafts  
52 or money orders drawn by the United States, any state thereof or any  
53 political subdivision of any such state, or by any department, bureau,  
54 agency, authority, instrumentality or officer, acting in his official  
55 capacity, of the United States, any state thereof or any political  
56 subdivision of any such state, or any banking institution, or to any

1 check or draft drawn by any insurance company, any broker or dealer  
2 registered with the securities and exchange commission, or any attorney  
3 for the settlement of claims, or to any check issued as an advance to a  
4 lawsuit or as part of a structured settlement, or to any check which has  
5 been certified by the banking institution on which it has been drawn, or  
6 if such check is drawn on a bona fide workers' compensation fund issued  
7 by a third-party payor, or if such check is drawn by an employer from a  
8 pension or profit sharing fund, or if such check is drawn by a union  
9 from a pension or benefit fund; provided further, however, that any such  
10 restriction upon the maximum face amount that may be cashed by a licen-  
11 see shall not apply to the cashing of checks, drafts or money orders by  
12 licensees for payees of such checks, drafts or money orders that are  
13 other than natural persons. For purposes of this subdivision, "banking  
14 institution" means any bank, trust company, savings bank, savings and  
15 loan association or credit union which is incorporated, chartered or  
16 organized under the laws of this state or any other state or the United  
17 States.

18 2. The superintendent may suspend or revoke any license or licenses  
19 issued pursuant to this article if, after notice and a hearing, he or  
20 she shall find that the licensee (a) has committed any fraud, engaged in  
21 any dishonest activities or made any misrepresentation; or (b) has  
22 violated any provisions of the banking law or any regulation issued  
23 pursuant thereto, or has violated any other law in the course of its or  
24 his dealings as a [~~licensed casher of checks~~] licensee delivering check  
25 cashing and related financial services to the public pursuant to this  
26 article; or (c) has made a false statement in the application for such  
27 license or failed to give a true reply to a question in such applica-  
28 tion; or (d) has demonstrated his or its incompetency or untrustworthi-  
29 ness to act as a [~~licensed casher of checks~~] licensee delivering finan-  
30 cial services to the public pursuant to this article; or (e) is not  
31 doing sufficient business pursuant to this article to justify the  
32 continuance of the license, or if he or she shall find that any ground  
33 or grounds exist which would require or warrant the refusal of an appli-  
34 cation for the issuance of the license if such an application were then  
35 before him or her. Such a hearing shall be held in the manner and upon  
36 such notice as may be prescribed by the superintendent. Pending an  
37 investigation or a hearing for the suspension or revocation of any  
38 license or licenses issued pursuant to this article, the superintendent  
39 may temporarily suspend such license or licenses for a period not to  
40 exceed ninety days, provided the superintendent shall find that such a  
41 temporary suspension is in the public interest.

42 § 13. The banking law is amended by adding a new section 373-a to read  
43 as follows:

44 § 373-a. Report of lending activity. 1. Any licensee who issues busi-  
45 ness or commercial loans pursuant to the authority granted in section  
46 three hundred seventy-three of this article shall submit information to  
47 the superintendent annually beginning January first, two thousand nine-  
48 teen regarding the following:

49 (a) the number of loans issued the previous year;  
50 (b) the default rate, if any, with respect to such loans;  
51 (c) the average cost of such loans, including fees and interest rates  
52 charged; and  
53 (d) such other information as the superintendent deems relevant.

54 2. The superintendent shall thereafter issue a report to the governor,  
55 temporary president of the senate and speaker of the assembly on April  
56 first, two thousand nineteen and annually thereafter compiling and

analyzing the information received pursuant to subdivision one of this section.

§ 14. Subdivision 10 of section 36 of the banking law, as amended by chapter 182 of the laws of 2011, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed ~~cashier of checks~~ financial services provider, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 15. Subdivisions 3 and 5 of section 37 of the banking law, as amended by chapter 360 of the laws of 1984, are amended to read as follows:

3. In addition to any reports expressly required by this chapter to be made, the superintendent may require any banking organization, licensed lender, licensed ~~cashier of checks~~ financial services provider, licensed mortgage banker, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company and any non-banking subsidiary thereof, corporate affiliate of a corporate banking organization within the meaning of subdivision six of section thirty-six of this article and any non-banking subsidiary of a corporation which is an affiliate of a corporate banking organization within the meaning of subdivision six-a of section thirty-six of this article to make special reports to him or her at such times as he or she may prescribe.

5. The superintendent may extend at his discretion the time within which a banking organization, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company or any non-banking subsidiary thereof, licensed ~~cashier of checks~~ finan-

1 cial services provider, licensed mortgage banker, private banker or  
2 licensed lender is required to make and file any report to the super-  
3 intendent.

4 § 16. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law,  
5 subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009  
6 and subdivision 3 as amended by chapter 155 of the laws of 2012, are  
7 amended to read as follows:

8 1. To appear and explain an apparent violation. Whenever it shall  
9 appear to the superintendent that any banking organization, bank holding  
10 company, registered mortgage broker, licensed mortgage banker, regis-  
11 tered mortgage loan servicer, licensed mortgage loan originator,  
12 licensed lender, licensed [~~cashier of checks~~] financial services  
13 provider, licensed sales finance company, licensed insurance premium  
14 finance agency, licensed transmitter of money, licensed budget planner,  
15 out-of-state state bank that maintains a branch or branches or represen-  
16 tative or other offices in this state, or foreign banking corporation  
17 licensed by the superintendent to do business or maintain a represen-  
18 tative office in this state has violated any law or regulation, he or  
19 she may, in his or her discretion, issue an order describing such appar-  
20 ent violation and requiring such banking organization, bank holding  
21 company, registered mortgage broker, licensed mortgage banker, licensed  
22 mortgage loan originator, licensed lender, licensed [~~cashier of checks~~]  
23 financial services provider, licensed sales finance company, licensed  
24 insurance premium finance agency, licensed transmitter of money,  
25 licensed budget planner, out-of-state state bank that maintains a branch  
26 or branches or representative or other offices in this state, or foreign  
27 banking corporation to appear before him or her, at a time and place  
28 fixed in said order, to present an explanation of such apparent  
29 violation.

30 2. To discontinue unauthorized or unsafe and unsound practices. When-  
31 ever it shall appear to the superintendent that any banking organiza-  
32 tion, bank holding company, registered mortgage broker, licensed mort-  
33 gage banker, registered mortgage loan servicer, licensed mortgage loan  
34 originator, licensed lender, licensed [~~cashier of checks~~] financial  
35 services provider, licensed sales finance company, licensed insurance  
36 premium finance agency, licensed transmitter of money, licensed budget  
37 planner, out-of-state state bank that maintains a branch or branches or  
38 representative or other offices in this state, or foreign banking corpo-  
39 ration licensed by the superintendent to do business in this state is  
40 conducting business in an unauthorized or unsafe and unsound manner, he  
41 or she may, in his or her discretion, issue an order directing the  
42 discontinuance of such unauthorized or unsafe and unsound practices, and  
43 fixing a time and place at which such banking organization, bank holding  
44 company, registered mortgage broker, licensed mortgage banker, regis-  
45 tered mortgage loan servicer, licensed mortgage loan originator,  
46 licensed lender, licensed [~~cashier of checks~~] financial services  
47 provider, licensed sales finance company, licensed insurance premium  
48 finance agency, licensed transmitter of money, licensed budget planner,  
49 out-of-state state bank that maintains a branch or branches or represen-  
50 tative or other offices in this state, or foreign banking corporation  
51 may voluntarily appear before him or her to present any explanation in  
52 defense of the practices directed in said order to be discontinued.

53 3. To make good impairment of capital or to ensure compliance with  
54 financial requirements. Whenever it shall appear to the superintendent  
55 that the capital or capital stock of any banking organization, bank  
56 holding company or any subsidiary thereof which is organized, licensed

1 or registered pursuant to this chapter, is impaired, or the financial  
2 requirements imposed by subdivision one of section two hundred two-b of  
3 this chapter or any regulation of the superintendent on any branch or  
4 agency of a foreign banking corporation or the financial requirements  
5 imposed by this chapter or any regulation of the superintendent on any  
6 licensed lender, registered mortgage broker, licensed mortgage banker,  
7 licensed ~~[cashier of checks]~~ financial services provider, licensed sales  
8 finance company, licensed insurance premium finance agency, licensed  
9 transmitter of money, licensed budget planner or private banker are not  
10 satisfied, the superintendent may, in the superintendent's discretion,  
11 issue an order directing that such banking organization, bank holding  
12 company, branch or agency of a foreign banking corporation, registered  
13 mortgage broker, licensed mortgage banker, licensed lender, licensed  
14 ~~[cashier of checks]~~ financial services provider, licensed sales finance  
15 company, licensed insurance premium finance agency, licensed transmitter  
16 of money, licensed budget planner, or private banker make good such  
17 deficiency forthwith or within a time specified in such order.

18 5. To keep books and accounts as prescribed. Whenever it shall appear  
19 to the superintendent that any banking organization, bank holding compa-  
20 ny, registered mortgage broker, licensed mortgage banker, registered  
21 mortgage loan servicer, licensed mortgage loan originator, licensed  
22 lender, licensed ~~[cashier of checks]~~ financial services provider,  
23 licensed sales finance company, licensed insurance premium finance agen-  
24 cy, licensed transmitter of money, licensed budget planner, agency or  
25 branch of a foreign banking corporation licensed by the superintendent  
26 to do business in this state, does not keep its books and accounts in  
27 such manner as to enable him or her to readily ascertain its true condi-  
28 tion, he or she may, in his or her discretion, issue an order requiring  
29 such banking organization, bank holding company, registered mortgage  
30 broker, licensed mortgage banker, registered mortgage loan servicer,  
31 licensed mortgage loan originator, licensed lender, licensed ~~[cashier of~~  
32 ~~checks]~~ financial services provider, licensed sales finance company,  
33 licensed insurance premium finance agency, licensed transmitter of  
34 money, licensed budget planner, or foreign banking corporation, or the  
35 officers or agents thereof, or any of them, to open and keep such books  
36 or accounts as he or she may, in his or her discretion, determine and  
37 prescribe for the purpose of keeping accurate and convenient records of  
38 its transactions and accounts.

39 § 17. Subdivisions 1, 2, 3, 4, 5 and 6 of section 42 of the banking  
40 law, subdivision 1 as amended by chapter 65 of the laws of 1948, subdivi-  
41 sions 2 and 3 as amended by chapter 553 of the laws of 1960, subdivi-  
42 sion 4 as amended by chapter 60 of the laws of 1957 and subdivisions 5  
43 and 6 as amended by chapter 249 of the laws of 1968, are amended to read  
44 as follows:

45 1. The name and the location of the principal office of every proposed  
46 corporation, private banker, licensed lender and licensed ~~[cashier of~~  
47 ~~checks]~~ financial services provider, the organization certificate,  
48 private banker's certificate or application for license of which has  
49 been filed for examination, and the date of such filing.

50 2. The name and location of every licensed lender and licensed ~~[cashier~~  
51 ~~of checks]~~ financial services provider, and the name, location, amount  
52 of capital stock or permanent capital and amount of surplus of every  
53 corporation and private banker and the minimum assets required of every  
54 branch of a foreign banking corporation authorized to commence business,  
55 and the date of authorization or licensing.

3. The name of every proposed corporation, private banker, branch of a foreign banking corporation, licensed lender and licensed ~~[cashier of checks]~~ financial services providers to which a certificate of authorization or a license has been refused and the date of notice of refusal.

4. The name and location of every private banker, licensed lender, licensed ~~[cashier of checks]~~ financial services provider, sales finance company and foreign corporation the authorization certificate or license of which has been revoked, and the date of such revocation.

5. The name of every banking organization, licensed lender, licensed ~~[cashier of checks]~~ financial services provider and foreign corporation which has applied for leave to change its place or one of its places of business and the places from and to which the change is proposed to be made; the name of every banking organization which has applied to change the designation of its principal office to a branch office and to change the designation of one of its branch offices to its principal office, and the location of the principal office which is proposed to be redesignated as a branch office and of the branch office which is proposed to be redesignated as the principal office.

6. The name of every banking organization, licensed lender, licensed ~~[cashier of checks]~~ financial services provider and foreign corporation authorized to change its place or one of its places of business and the date when and the places from and to which the change is authorized to be made; the name of every banking organization authorized to change the designation of its principal office to a branch office and to change the designation of a branch office to its principal office, the location of the redesignated principal office and of the redesignated branch office, and the date of such change.

§ 18. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed ~~[cashier of checks]~~ financial services provider, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

§ 19. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that:

(a) effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date shall be added, amended and/or repealed on or before such date;

(b) the amendments to section 373 of the banking law made by section twelve of this act shall expire and be deemed repealed June 30, 2022;

(c) section 373-a of the banking law as added by section thirteen of this act shall expire and be deemed repealed June 30, 2022; and

(d) any contract, instrument, argument or other written obligation entered into by a financial service provider authorized under section 373 of the banking law prior to June 30, 2022 shall be deemed valid and enforceable after such date.