

STATE OF NEW YORK

7583

2023-2024 Regular Sessions

IN SENATE

June 21, 2023

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

AN ACT to amend the executive law and the banking law, in relation to establishing the banking bill of rights

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

1 Section 1. Legislative intent. Across New York, financial institutions
2 terminate individuals' bank accounts or deny their applications with no
3 reason provided or recourse allowed. These banking practices dispropor-
4 tionately impact immigrant communities, resulting in unbanked or under-
5 banked New Yorkers. Such practices harm consumers' credit scores and
6 histories, creating barriers to housing, education and access to the
7 financial industry altogether; they also block millions of dollars of
8 donations to charitable organizations. Furthermore, these unfair and
9 discriminatory practices create a chilling effect on local economies
10 statewide. Personal finance deserves due process, and it is the intent
11 of the legislature to ensure fundamental banking rights for all New
12 Yorkers. Requiring financial institutions to disclose the reasons for
13 adverse actions with respect to credit and deposit accounts will prevent
14 discrimination ex ante, in addition to giving consumers an opportunity
15 to improve their credit or financial status and rectify mistakes that
16 may occur from misinformation or inadequate information; it will also
17 create a beneficial competitive effect on the financial industry.

18 § 2. The executive law is amended by adding a new section 296-b to
19 read as follows:

20 § 296-b. Banking bill of rights. 1. Definitions. For the purposes of
21 this section, the following terms shall have the following meanings:

22 a. "Financial institution" shall mean any corporation organized under
23 and subject to the provisions of the banking law, including any bank,
24 trust company, savings bank, savings and loan association, credit union,
25 mortgage broker, mortgage banker, or other investment entity, whether

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

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1 headquartered within or outside the state, which provides credit or a
2 deposit account to a customer in the state.

3 b. "Deposit account" shall mean any demand deposit account, including
4 but not limited to, a checking account, time deposit account, certifi-
5 cate of deposit (CD), savings account, passbook account, share account,
6 money market account, or other similar account maintained by a financial
7 institution.

8 c. "Adverse action" shall mean a termination or closure of an account
9 or an unfavorable change in the terms of an account that does not affect
10 all or substantially all of a class of the financial institution's cred-
11 it or deposit accounts, including but not limited to, loss of privi-
12 leges. The term "adverse action" shall not include a change in the terms
13 of an account expressly agreed to by an account holder, or any action or
14 forbearance relating to an account taken in connection with inactivity,
15 default, or delinquency of such account.

16 2. Due process requirements. Notwithstanding any other provision of
17 law or rule or regulation to the contrary, a financial institution
18 shall:

19 a. provide written notice of:

20 (1) all the specific reasons for denial of an application for credit
21 or a deposit account to an applicant within ten days of such denial; and

22 (2) any adverse action of an existing customer's credit or deposit
23 account and all the specific reasons for such adverse action at least
24 thirty days prior to taking such adverse action; provided, however, that
25 where such adverse action is a refusal or failure to authorize an
26 account transaction at a point of sale, or whereby fraud or potentially
27 unlawful activity is detected, written notice shall be provided as soon
28 as reasonably possible but no later than five days after such adverse
29 action is taken.

30 b. provide a reasonable opportunity for an applicant for credit or a
31 deposit account or a customer with existing credit or a deposit account
32 to contest or correct any information that the financial institution may
33 have relating to denial of an application for credit or a deposit
34 account or any pending adverse action relating to a customer's existing
35 credit or deposit account; and

36 c. consider any information provided by an applicant for credit or a
37 deposit account or a customer with existing credit or a deposit account
38 pursuant to paragraph b of this subdivision in making a final decision
39 regarding denial of an application for credit or a deposit account or
40 any pending adverse action related to existing credit or a deposit
41 account.

42 3. Enforcement. a. Any financial institution that violates subpara-
43 graph one or two of paragraph a of subdivision two of this section shall
44 be liable to such applicant or customer for the following:

45 (1) ten thousand dollars for each such violation;

46 (2) actual damages resulting from such violation, including consequen-
47 tial and incidental damages;

48 (3) reasonable attorneys' fees; and

49 (4) in the case of repeat violations or violators, punitive damages.

50 b. A violation pursuant to paragraph a of this subdivision shall
51 create a presumption of unlawful discriminatory practice pursuant to
52 sections two hundred ninety-six and two hundred ninety-six-a of this
53 article in favor of the applicant or customer.

54 c. Any applicant or customer seeking to enforce the provisions of this
55 section, in lieu of the procedure set forth in section two hundred nine-
56 ty-seven of this article, may file a verified complaint with the super-

1 intendent of financial services; provided, however, that the filing of
2 such complaint with either the superintendent of financial services or
3 the division shall bar subsequent recourse to the other agency, as well
4 as to any local commission on human rights, with respect to the griev-
5 ance complained of. In the case of a verified complaint filed with the
6 superintendent of financial services, the procedure set forth in para-
7 graphs a and b of subdivision seven of section two hundred ninety-six-a
8 of this article shall apply. If the superintendent of financial services
9 finds that a violation of this section has occurred, such superintendent
10 shall issue an order determining liability pursuant to paragraph a of
11 this subdivision.

12 4. Preemption. Nothing in this section shall be construed to preempt
13 any other state or federal law prohibiting the disclosure of certain
14 protected consumer information or limit the ability of financial insti-
15 tutions to make reasonable business judgments.

16 5. Rules and regulations. The superintendent of financial services is
17 authorized to promulgate rules and regulations to effectuate the
18 provisions of this section.

19 § 3. Paragraph a of subdivision 4 of section 296-a of the executive
20 law, as amended by chapter 632 of the laws of 1976, is amended to read
21 as follows:

22 a. [~~If so requested by~~] A creditor shall furnish an applicant for
23 credit[~~, a creditor shall furnish such applicant~~] with a statement of
24 the specific reasons for rejection of the applicant's application for
25 credit pursuant to section two hundred ninety-six-b of this article.

26 § 4. Section 9-d of the banking law, as added by chapter 173 of the
27 laws of 1974 and as further amended by section 104 of part A of chapter
28 62 of the laws of 2011, is amended to read as follows:

29 § 9-d. Enforcement of [~~section~~] sections two hundred ninety-six-a and
30 two hundred ninety-six-b of the executive law. In addition to the powers
31 conferred upon the superintendent of financial services by this chapter,
32 he or she shall enforce [~~section~~] sections two hundred ninety-six-a and
33 two hundred ninety-six-b of the executive law by taking such action as
34 is therein authorized.

35 § 5. This act shall take effect immediately.