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

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Cal. No. 894

2009-2010 Regular Sessions

I N  S E N A T E

March 30, 2009

Introduced by Sen. FOLEY -- (at request of the Banking Department) -- 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 -- recommitted to the Committee on Banks in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee with amendments and ordered reprinted as amended and when reprinted to be committed to the order of first report

AN ACT to amend the banking law, in relation to licensed lenders, licensed cashers of checks, sales finance companies, premium finance companies, budget planners and transmitters of money; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 340 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

S 340. Doing business without license prohibited. No person [or other entity] shall engage in the business of making loans IN NEW YORK in the principal amount of [twenty-five] FIFTY thousand dollars or less for any loan to an individual for personal, family, household, or investment purposes and in a principal amount of [fifty] ONE HUNDRED thousand dollars or less for business and commercial [loans, and charge, contract for, or receive a greater rate of interest than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this article and] PURPOSES without first obtaining a license from the superintendent.

For the purposes of this section, a person [or entity] shall be considered as engaging in the business of making loans in New York, and subject to the licensing and other requirements of this article, if it solicits loans in [the amounts prescribed by this section within] this state BY ANY MEANS, INCLUDING BUT NOT LIMITED TO, MAIL, ELECTRONIC MAIL,

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

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TELEPHONE, RADIO, TELEVISION, THE INTERNET OR ANY OTHER ELECTRONIC MEANS, and, in connection with such solicitation, makes loans to individuals then resident OR LOCATED in this state OR, IN THE CASE OF LOANS FOR BUSINESS OR COMMERCIAL PURPOSES, HAVING A PLACE OF BUSINESS WITHIN THIS STATE, except that no person [or entity] shall be considered as engaging in the business of making loans in this state on the basis of [isolated, incidental or occasional] transactions which otherwise meet the requirements of this section IF THE NUMBER OF LOANS MADE IN ANY ONE YEAR BY ANY SUCH PERSON IS NOT MORE THAN FIVE LOANS AND THE AGGREGATE AMOUNT OF LOANS OUTSTANDING AT ANY ONE TIME DOES NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. THE SUPERINTENDENT MAY EXEMPT FROM THE LICENSING AND OTHER REQUIREMENTS OF THIS ARTICLE, ON SUCH TERMS AS HE OR SHE SHALL DEEM CONSISTENT WITH THE PURPOSES OF SECTION TEN AND THIS ARTICLE, ANY PERSON HE OR SHE DETERMINES IS NOT ENGAGED IN THE BUSINESS OF MAKING LOANS IN THIS STATE, OTHER THAN AS AN INCIDENT TO ANOTHER LEGAL BUSINESS ACTIVITY.

Nothing in this article shall apply to licensed collateral loan brokers.

S 2. The banking law is amended by adding a new section 340-a to read as follows:

S 340-A. DEFINITIONS. WHEN USED IN THIS ARTICLE: 1. THE TERM "PERSON" MEANS ANY INDIVIDUAL OR LEGAL ENTITY, INCLUDING ANY CORPORATION, PARTNERSHIP, ASSOCIATION OR LIMITED LIABILITY COMPANY.

2. THE TERM "CONTROL" MEANS THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A PERSON, WHETHER BY MEANS OF THE OWNERSHIP OF THE VOTING STOCK OR EQUITY INTERESTS OF SUCH PERSON OR OF ONE OR MORE PERSONS CONTROLLING SUCH PERSON, BY MEANS OF A CONTRACTUAL ARRANGEMENT, OR OTHERWISE. CONTROL SHALL BE PRESUMED TO EXIST IF ANY PERSON DIRECTLY OR INDIRECTLY OWNS, CONTROLS OR HOLDS WITH THE POWER TO VOTE TEN PERCENT OR MORE OF THE VOTING STOCK OR EQUITY INTERESTS OF A LICENSEE OR OF ANY OTHER ENTITY THAT DIRECTLY OR INDIRECTLY CONTROLS SUCH PERSON.

S 3. Subdivisions 3 and 5 of section 341 of the banking law, as amended by chapter 494 of the laws of 1998, are amended to read as follows:

3. In addition to the investigation fee [and annual license fee] every licensee hereunder shall pay to the superintendent the sums provided to be paid under the provisions of section seventeen of [the banking law] THIS CHAPTER.

5. The applicant shall also prove, in form satisfactory to the superintendent, that the applicant has available for the operation of such business [at the location or locations specified in the application liquid assets] NET WORTH of at least fifty thousand dollars OR SUCH AMOUNT AS MAY BE DETERMINED BY THE SUPERINTENDENT. This amount shall be maintained for the period within which the licensee makes loans in the amounts prescribed in section three hundred forty of this article [at such location].

S 4. Section 342 of the banking law, as amended by chapter 494 of the laws of 1998, is amended to read as follows:

S 342. Conditions precedent to issuing license; procedure where application denied. Upon the filing of such application and the payment of such fees, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a partnership [or], association OR LIMITED LIABILITY COMPANY, and of the officers and directors thereof if the applicant be a corporation, are such as to command the

confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, and if the superintendent shall find that the applicant has available for the operation of such business [at each specified location liquid assets of at least fifty thousand dollars] SUCH AMOUNT AS CALCULATED IN ACCORDANCE WITH SUBDIVISION FIVE OF SECTION THREE HUNDRED FORTY-ONE OF THIS ARTICLE, the superintendent shall thereupon execute a master license, and if applicable one or more supplemental licenses, to make loans in accordance with the provisions of this article at the location or locations specified in the said application. The superintendent shall transmit one copy of such license or licenses to the applicant and file the same in the office of the department. Each such license shall remain in full force and effect until it is surrendered by the licensee or [revoked or] suspended, REVOKED OR TERMINATED as [hereinafter] HEREIN provided; if the superintendent shall not so find, a master license shall not be issued and the superintendent shall notify the applicant of the denial. If an application is denied or withdrawn the superintendent shall [return to the applicant the sum paid by the applicant as a license fee, retaining] RETAIN the investigation fee to cover the costs of investigating the application. The superintendent shall approve or deny every application for a master license hereunder within ninety days from the [filing thereof with the said fees] DATE THE APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

S 5. Subdivision 1 of section 343 of the banking law, as amended by chapter 494 of the laws of 1998, is amended to read as follows:

1. A license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a partnership [or], association OR LIMITED LIABILITY COMPANY, the names of the members thereof, and if a corporation, the date and place of its incorporation. A master license shall be kept conspicuously posted in the principal place of business of the licensee and a supplemental license shall be conspicuously posted at the location identified in the license. No master or supplemental license shall be transferable or assignable.

S 6. The second undesignated paragraph of subdivision 1 of section 345 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

[As used in this subdivision, (a) the term "person" includes an individual, partnership, corporation, association or any other organization and (b) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether by means of the ownership of the voting stock or equity interests of such person or of one or more persons controlling such person, by means of a contractual arrangement, or otherwise. Control shall be presumed to exist if any person directly or indirectly owns, controls or holds with the power to vote ten per centum or more of the voting stock or equity interests of the person desirous of continuing to maintain and operate a licensee's place of business or of any entity which directly or indirectly controls such person.] The superintendent may, upon the application of a licensee or any [such] person [or entity], determine whether or not the ownership, control or holding of such voting stock or equity interests constitutes or would constitute control for purposes of this subdivision.

S 7. Section 347 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

S 347. Grounds for [revocation or] suspension, REVOCATION OR TERMINATION of license; procedure. [The] 1. IN ADDITION TO THE AUTHORITY SET FORTH IN SUBDIVISION TWO OF THIS SECTION, THE superintendent may suspend or revoke any license issued [hereunder] UNDER THIS ARTICLE if, AFTER NOTICE AND A HEARING the superintendent shall find that:

(a) The licensee has failed to pay any sum of money lawfully demanded by the superintendent or to comply with any demand, ruling, or requirement of the superintendent;

(b) The licensee has violated any provisions of this article, the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended, or of any rule or regulation lawfully made by the superintendent;

(c) Any fact or condition exists which, if it had existed at the time of the original application for such license, [clearly] would have warranted the superintendent in refusing originally to issue such license;

(d) The licensee has engaged in the business of a sales finance company and has done or failed to do any act, except the failure to pay the fees required, which would be grounds for the suspension or revocation of its license pursuant to section four hundred ninety-five of this chapter were it required to obtain such a license.

THE SUPERINTENDENT MAY REVOKE OR SUSPEND ONLY THE PARTICULAR LICENSE WITH RESPECT TO WHICH GROUNDS FOR REVOCATION OR SUSPENSION MAY OCCUR OR EXIST, OR, IF THE SUPERINTENDENT SHALL FIND THAT SUCH GROUNDS FOR REVOCATION OR SUSPENSION ARE OF GENERAL APPLICATION TO ALL OFFICES, OR TO MORE THAN ONE OFFICE, OPERATED BY SUCH LICENSEE, THE SUPERINTENDENT SHALL REVOKE OR SUSPEND ALL OF THE LICENSES ISSUED TO SUCH LICENSEE OR SUCH NUMBER OF LICENSES AS SUCH GROUNDS APPLY TO, AS THE CASE MAY BE.

2. (A) The superintendent may [on] FOR good cause [shown], without notice or A hearing, [suspend] ISSUE AN ORDER SUSPENDING any license ISSUED PURSUANT TO THIS ARTICLE for a period not exceeding [thirty] NINETY days, pending investigation.

[The superintendent may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if the superintendent shall find that such grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by such licensee, the superintendent shall revoke or suspend all of the licenses issued to such licensee or such number of licenses as such grounds apply to, as the case may be.] "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO MAKE ANY PAYMENTS AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE:

(I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; OR

(II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; OR

(III) UPON NOTICE AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY.

3. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO THIS ARTICLE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. Any licensee may surrender any license by delivering to the superintendent written notice that the licensee thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

5. No revocation [or], suspension, TERMINATION or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

6. Every license issued hereunder shall remain in force and effect until it shall have been surrendered, revoked, TERMINATED, or suspended in accordance with the provisions of this article, but the superintendent shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked OR TERMINATED if no fact or condition then exists which clearly would have warranted the superintendent in refusing originally to issue such license under this article.

7. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, the superintendent shall execute a written order to that effect. The superintendent shall file one copy of such order in the office of the department and serve a copy upon the licensee, which order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized by this section must be commenced within thirty days from the date of such order of suspension or revocation.

8. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A LICENSED LENDER IN THIS STATE.

S 8. Section 356 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

S 356. [Restrictions on certain loans by non-licensees, interests, other charges; loans] LOANS made outside this state. [No person or other entity, other than a licensee under this article, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the person or other entity would be permitted

by law to charge if it were not a licensee hereunder upon a loan not exceeding the maximum amounts prescribed in section three hundred forty of this article.

The foregoing prohibition shall apply to any person or other entity who or which, by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by the laws of this state for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.]

Any loan in an amount not exceeding the maximum amounts prescribed in section three hundred forty of this article for which a greater rate of interest, consideration, or charges than is permitted by the laws of this state has been charged, contracted for, or received, wherever made, shall not be enforced in this state and every person or other entity participating therein in this state shall be subject to the provisions of this article. An action to enforce any such loan made in any other state to a person then a resident of that state, who now resides in this state may be maintained in this state if the amount of interest, discount, consideration or other charge for such loan, demanded to be paid in such action, does not exceed that permitted to a licensee by section three hundred fifty-one of this article for a loan of the same amount repayable in the same manner.

S 9. Subdivision 1 of section 366 of the banking law, as amended by chapter 849 of the laws of 1964, is amended and a new subdivision 4 is added to read as follows:

1. The term "licensed casher of checks" means any [individual, partnership, unincorporated association or corporation] PERSON duly licensed by the superintendent of banks to engage in business pursuant to the provisions of this article.

4. THE TERM "PERSON" MEANS ANY INDIVIDUAL OR LEGAL ENTITY, INCLUDING ANY CORPORATION, PARTNERSHIP, ASSOCIATION OR LIMITED LIABILITY COMPANY.

S 10. Subdivisions 1, 2 and 4 of section 367 of the banking law, subdivisions 1 and 2 as amended by chapter 151 of the laws of 1945 and subdivision 4 as amended by chapter 96 of the laws of 1981, are amended to read as follows:

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, the New York state registration number or other identification of such mobile unit and the area in which the applicant proposes to operate such mobile unit; and also such further information as the superintendent may require.

4. Every applicant shall prove, in form satisfactory to the superintendent that he, SHE or it has available for the operation of such business, for each location and for each mobile unit 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 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 AND SUCH AMOUNT AS HE OR SHE SHALL DEEM APPROPRIATE FOR EACH LIMITED STATION.

S 11. Subdivision 1 of section 369 of the banking law, as amended by chapter 233 of the laws of 2005, is amended to read as follows:

1. If the superintendent shall find that:

(I) the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership [or], association OR LIMITED LIABILITY COMPANY, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, and [if the superintendent shall find that]

(II) the granting of such application will promote the convenience and advantage of the area in which such business is to be conducted, and [if the superintendent shall find that]

(III) the applicant has available for the operation of such business for each location and for each mobile unit specified in the application liquid assets of at least ten thousand dollars, PROVIDED THAT, 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 AND A REDUCTION TO SUCH AMOUNT AS THE SUPERINTENDENT SHALL DEEM APPROPRIATE FOR EACH LIMITED STATION,

(IV) THE PRIMARY BUSINESS OF THE LICENSEE, AT THE LOCATION TO BE LICENSED, SHALL BE FINANCIAL SERVICES, AND

(V) THE APPLICANT'S PROPOSED OFFICES COMPLY WITH SUBDIVISION ONE-A OF THIS SECTION,

the superintendent shall thereupon execute a license in duplicate to permit the cashing of checks, drafts and money orders in accordance with the provisions of this article at the location or in the area specified in such application. In finding whether the application will promote the convenience and advantage to the public, the superintendent shall determine whether there is a community need for a new licensee in the proposed area to be served. THE SUPERINTENDENT SHALL TRANSMIT ONE COPY OF SUCH LICENSE TO THE APPLICANT AND FILE ANOTHER IN THE OFFICE OF THE DEPARTMENT.

1-A. No license shall be issued to an applicant for a license, at a location to be licensed which is closer than one thousand five hundred eighty-four feet (three-tenths of a mile) from an existing licensee, MEASURED ON A STRAIGHT LINE ALONG THE STREET BETWEEN THE NEAREST POINT OF THE STORE FRONTS OF THE CHECK CASHING FACILITIES, except:

(I) with the written consent of such existing licensee [or],

(II) pursuant to subdivision three of section three hundred seventy of this article, subject to any restriction or condition as the superintendent may promulgate by regulation[; provided, however],

(iii) the superintendent may permit a location to be licensed that is closer than three-tenths of a mile from an existing licensee provided THAT (A) such applicant engages in the cashing of checks, drafts or money orders only for payees of such checks, drafts or money orders that are other than natural persons at the location to be licensed and (B) such applicant was engaged in the cashing of such checks, drafts or

money orders for payees that are other than natural persons at such location on or before the fourteenth day of July, two thousand four, and [provided further that upon licensing any such location by the superintendent,] (C) SUCH LICENSE SHALL BEAR A LEGEND STATING THAT SUCH LOCATION IS RESTRICTED TO THE CASHING OF CHECKS, DRAFTS OR MONEY ORDERS ONLY FOR PAYEES THAT ARE OTHER THAN NATURAL PERSONS, AND (D) AFTER THE SUPERINTENDENT LICENSES SUCH LOCATION, such license as it pertains solely to such location shall not be affected thereafter by any change of control of such license pursuant to section three hundred seventy-a of this article, [provided that] AS LONG AS the licensee continues thereafter to engage at that location in the cashing of checks, drafts or money orders only for payees that are other than natural persons [and provided further that such license shall bear a legend stating that such location is restricted to the cashing of checks, drafts or money orders only for payees that are other than natural persons]. The three-tenths of a mile distance requirement as set forth in this [section] SUBDIVISION shall not apply in cases where the existing licensee is a restricted location as authorized in the preceding sentence, or is any other licensed location that engages solely in the cashing of checks, drafts or money orders only for payees that are other than natural persons. [For purposes of this section, such distance shall be measured on a straight line along the street between the nearest point of the store fronts of the check cashing facilities. The primary business of the licensee, at the location to be licensed, shall be financial services. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the department. 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.]

S 12. Subdivision 2 of section 370-a of the banking law, as added by chapter 142 of the laws of 1992, is amended to read as follows:

2. The superintendent shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of subdivisions one and six of section three hundred sixty-nine of this article. The superintendent shall approve or disapprove the application in writing within ninety days [after the date the application is filed with the superintendent] FROM THE DATE THE APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

S 13. Section 373 of the banking law, as amended by chapter 485 of the laws of 1947, subdivision 1 as amended by chapter 432 of the laws of 2004, subdivision 2 as amended by chapter 132 of the laws of 1969, subdivision 3 as amended by chapter 310 of the laws of 1962 and subdivision 5 as added by chapter 235 of the laws of 2008, is amended to read as follows:

S 373. Acts prohibited; suspension [or], revocation OR TERMINATION of license; penalties. 1. (A) No licensee shall engage in the business of making loans of money, credit, goods or things or discounting of notes, bills of exchange, checks, or other evidences of debt pursuant to the provisions of article nine of this chapter, nor shall a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks or other evidences of debt be conducted on the same premises where the licensee is conducting business pursuant to the provisions of this article.

(B) Except as otherwise provided by regulation of the superintendent, all checks, drafts and money orders shall be deposited in the licensee's

bank account not later than the first business day following the day on which they were cashed. No licensee shall at any time cash or advance any moneys on a post-dated check or draft or engage in the business of transmitting money or receiving money for transmission; provided, however, that a licensee may cash a check payable on the first banking business day following the date of cashing [(a)] (I) if such check is drawn by the United States, the state of New York, or any political subdivision of the state of New York, or by any department, bureau, agency, authority, instrumentality or officer, acting in his official capacity, of the United States or of the state of New York or of any political subdivision of the state of New York, or [(b)] (II) if such check is a payroll check drawn by an employer to the order of its employee in payment for services performed by such employee.

(C) No licensee shall cash any check, draft or money order if the face amount for which it is drawn is in excess of fifteen thousand dollars; provided, however, that this restriction shall not apply to the cashing of checks, drafts or money orders drawn by the United States, any state thereof or any political subdivision of any such state, or by any department, bureau, agency, authority, instrumentality or officer, acting in his official capacity, of the United States, any state thereof or any political subdivision of any such state, or any banking institution, or to any check or draft drawn by any insurance company, any broker or dealer registered with the securities and exchange commission, or any attorney for the settlement of claims, or to any check which has been certified by the banking institution on which it has been drawn; provided further, however, that any such restriction upon the maximum face amount that may be cashed by a licensee shall not apply to the cashing of checks, drafts or money orders by licensees for payees of such checks, drafts or money orders that are other than natural persons. For purposes of this subdivision, "banking institution" means any bank, trust company, savings bank, savings and loan association or credit union which is incorporated, chartered or organized under the laws of this state or any other state or the United States.

2. [The] IN ADDITION TO THE AUTHORITY SET FORTH IN SUBDIVISION THREE OF THIS SECTION, THE superintendent may suspend or revoke any license or licenses issued pursuant to this article if, after notice and a hearing, he OR SHE shall find that the licensee (a) has committed any fraud, engaged in any dishonest activities or made any misrepresentation; or (b) has violated any provisions of [the banking law] THIS CHAPTER or any regulation issued pursuant thereto, or has violated any other law in the course of [its or his] THE LICENSEE'S dealings as a licensed casher of checks; or (c) has made a false statement in the application for such license or failed to give a true reply to a question in such application; or (d) has demonstrated his, HER or its incompetency or untrustworthiness to act as a licensed casher of checks; or (e) is not doing sufficient business pursuant to this article to justify the continuance of the license, or if he OR SHE shall find that any ground or grounds exist which would require or warrant the refusal of an application for the issuance of the license if such an application were then before [him] THE SUPERINTENDENT. Such a hearing shall be held in the manner and upon such notice as may be prescribed by the superintendent. [Pending an investigation or a hearing for the suspension or revocation of any license or licenses issued pursuant to this article, the superintendent may temporarily suspend such license or licenses for a period not to exceed ninety days, provided the superintendent shall find that such a temporary suspension is in the public interest.]

3. (A) THE SUPERINTENDENT MAY FOR GOOD CAUSE, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE FOR A PERIOD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENTS AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; (II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY; OR (IV) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS FAILED TO MAINTAIN THE REQUISITE CAPITAL LEVEL.

4. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION THREE OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION THREE OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

5. Whenever the superintendent shall suspend or revoke a license issued pursuant to this article, he OR SHE shall forthwith execute a written order to that effect. The superintendent shall on the date such order is executed file one copy thereof in the office of the department and serve a second copy thereof on the licensee either personally or by mailing the same to the last known address of such licensee. Such order shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules; provided, however, that a special proceeding for review of such order must be commenced within thirty days from the date of such order of suspension or revocation and, provided further, that no stay shall be granted pending the determination of the matter except on notice to the superintendent and for a period not exceeding thirty days.

[4.] 6. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A LICENSED CHECK CASHER IN THIS STATE.

7. Any person[, partnership, association or corporation] and the several members, officers, directors, agents and employees thereof, who shall violate any of the provisions of this article, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than one year or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

[5.] 8. Notwithstanding the provisions of subdivision [four] SEVEN of this section, any person[, partnership, association or corporation] and the several members, officers, directors, agents and employees thereof who shall violate the provisions of subdivision one of section three hundred sixty-seven of this article shall be guilty of a class A misdemeanor.

S 14. Subdivision 1 of section 374 of the banking law, as amended by chapter 582 of the laws of 2000, is amended to read as follows:

1. The provisions of this article shall not apply when checks, drafts or money orders are cashed, other than by a licensee, without a consideration or charge; nor when checks, drafts or money orders are cashed, other than by a licensee, as an incident to the conduct of any other lawful business where not more than one dollar is charged for cashing each check, draft or money order; nor shall the provisions of this article apply to any national bank, federal reserve bank, or to any person[, partnership, association, corporation or other organization] doing business under or pursuant to the provisions of this chapter, except a licensee under this article.

S 15. Subdivisions 6-a, 6-b and 7 of section 491 of the banking law, subdivision 6-a as amended by chapter 289 of the laws of 1962, subdivision 6-b as added by chapter 358 of the laws of 1958 and subdivision 7 as amended by chapter 837 of the laws of 1966, are amended to read as follows:

6-a. "Retail instalment obligation" or "obligation" means an agreement, entered into in this state, pursuant to which the buyer promises to pay, in instalments, the time sale price or prices of goods and/or services, or any part thereof. The term does not include [(a)] a retail instalment contract[, (b)] OR a retail instalment credit agreement [or (c) an obligation which is intended to be and is ultimately insured or guaranteed under title three of the act of Congress entitled "Servicemen's Readjustment Act of 1944"]. THE TERM INCLUDES SUCH AN AGREEMENT WHEREVER ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF SOLICITED IN PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR HER OWN BEHALF OR THAT OF THE SELLER.

6-b. "Retail instalment credit agreement" or "credit agreement" means an agreement entered into in this state, pursuant to which the buyer promises to pay, in instalments, his OR HER outstanding indebtedness from time to time to a retail seller, not evidenced by a retail instalment contract or obligation, for one or more items of goods or services, whenever purchased or obtained, which provides for a service charge and under which instalment payments apply to his OR HER outstanding indebtedness from time to time. THE TERM INCLUDES SUCH AN AGREEMENT WHEREVER ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF SOLICITED IN PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR HER OWN BEHALF OR THAT OF THE SELLER.

7. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly, in the business of purchasing or otherwise acquiring retail instalment contracts, obligations or credit agreements made by and between other parties, or any interest therein. The term includes a retail seller of motor vehicles engaged, in whole or in part,

in the business of holding retail instalment contracts acquired from retail buyers, [which have] IF THE NUMBER OF RETAIL INSTALMENT CONTRACTS ACQUIRED IN ANY ONE YEAR EXCEEDS FIVE SUCH CONTRACTS, OR IF THE aggregate unpaid time balances [of twenty-five] ON SUCH CONTRACTS EXCEED ONE HUNDRED thousand dollars or more at any one time, exclusive of contracts repurchased from a sales finance company or financing agency, under an agreement to repurchase in case of default entered into as an incident to the bona fide sale thereof to a sales finance company or financing agency. The term does not include the pledgee of an aggregate number of contracts to secure a bona fide loan thereon, OR A SECONDARY HOLDER OF SUCH CONTRACTS. The term includes a person engaged, in whole or in part, directly or indirectly, in the business of entering into retail instalment credit agreements with retail buyers pursuant to subdivision eleven of section four hundred thirteen of the personal property law. FOR PURPOSES OF THIS ARTICLE, THE TERM "SECONDARY HOLDER" MEANS A PERSON THAT (I) PURCHASES OR OTHERWISE ACQUIRES A SALES FINANCE CONTRACT, OR AN INTEREST THEREIN, THAT WAS ORIGINATED BY A PERSON LICENSED OR EXEMPT FROM LICENSING UNDER THIS ARTICLE AND THAT IS SERVICED BY A PERSON LICENSED OR EXEMPT FROM LICENSING UNDER THIS ARTICLE, AND (II) HAS NO CONTACT WITH THE OBLIGOR UNDER SUCH CONTRACT.

S 16. Subdivisions 1 and 2 of section 492 of the banking law, subdivision 1 as amended by chapter 547 of the laws of 2008 and subdivision 2 as added by chapter 635 of the laws of 1956, are amended to read as follows:

1. No person, except a bank, savings bank, savings and loan association, trust company, private banker, credit union, OR investment company, organized under [article twelve of] this chapter [and authorized to accept deposits, national bank, federal savings association, federal credit union, or out-of-state state bank, as such term is defined in subdivision two of section two hundred twenty-two of this chapter], A BRANCH OR AGENCY OF A FOREIGN BANKING CORPORATION LICENSED BY THE SUPERINTENDENT OR COMPTROLLER OF THE CURRENCY TO TRANSACT BUSINESS IN THIS STATE, ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, INDUSTRIAL LOAN COMPANY, BANK OR CREDIT UNION ORGANIZED UNDER THE LAWS OF ANY OTHER STATE OR THE UNITED STATES, or lender licensed TO CONDUCT BUSINESS pursuant to THE PROVISIONS OF article nine of this chapter, shall engage in the business of a sales finance company in this state without a license therefor obtained from the superintendent, as provided in this article.

2. [Application for a license required under this article shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the following:

(a) The exact name of the applicant and date of incorporation, if incorporated;

(b) The complete address where the business is to be conducted, showing the street and number, if any, the office building and room number, if any, and the municipality and county;

(c) If the applicant has one or more branches, subsidiaries or affiliates operating in this state, the complete address of each such place of business; and

(d) The name and resident address of the owner or partners of the applicant or, if a corporation or association, of the directors, trustees and principal officers, and of any stockholder owning twenty per centum or more of its stock; and

(e) Such other pertinent information as the superintendent may require.]

THE APPLICATION FOR A LICENSE TO BE A SALES FINANCE COMPANY SHALL BE IN WRITING, UNDER OATH, AND IN THE FORM PRESCRIBED BY THE SUPERINTENDENT. THE APPLICATION SHALL CONTAIN THE NAME AND COMPLETE BUSINESS AND RESIDENTIAL ADDRESS OR ADDRESSES OF THE APPLICANT. IF THE APPLICANT IS A PARTNERSHIP, ASSOCIATION, CORPORATION OR OTHER FORM OF BUSINESS ORGANIZATION, THE APPLICATION SHALL CONTAIN THE NAMES AND COMPLETE BUSINESS AND RESIDENTIAL ADDRESSES OF EACH MEMBER, DIRECTOR AND PRINCIPAL OFFICER THEREOF. SUCH APPLICATION SHALL ALSO INCLUDE A DESCRIPTION OF THE ACTIVITIES OF THE APPLICANT, IN SUCH DETAIL AND FOR SUCH PERIODS, AS THE SUPERINTENDENT MAY REQUIRE INCLUDING:

(A) AN AFFIRMATION OF FINANCIAL SOLVENCY NOTING SUCH CAPITALIZATION REQUIREMENTS AS MAY BE PRESCRIBED BY THE SUPERINTENDENT, AND ACCESS TO SUCH CREDIT AS MAY BE PRESCRIBED BY THE SUPERINTENDENT;

(B) AS PROVIDED IN SECTION TWENTY-TWO OF THIS CHAPTER, THE FINGERPRINTS OF THE APPLICANT AND EACH MEMBER, DIRECTOR AND PRINCIPAL OFFICER OF THE APPLICANT AS THE SUPERINTENDENT MAY DETERMINE;

(C) AN AFFIRMATION THAT THE APPLICANT, OR ITS MEMBERS, DIRECTORS OR PRINCIPALS AS MAY BE APPROPRIATE, ARE AT LEAST TWENTY-ONE YEARS OF AGE;

(D) INFORMATION AS TO THE CHARACTER, FITNESS, FINANCIAL AND BUSINESS RESPONSIBILITY, BACKGROUND AND EXPERIENCES OF THE APPLICANT, ITS MEMBERS, DIRECTORS OR PRINCIPALS AND OF ANY PERSON OWNING TEN PER CENTUM OR MORE OF THE APPLICANT AND IF SUCH PERSON IS A PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER FORM OF BUSINESS ORGANIZATION, SUCH ENTITY'S MEMBERS, DIRECTORS OR PRINCIPALS; AND

(E) SUCH OTHER PERTINENT INFORMATION AS THE SUPERINTENDENT SHALL REQUIRE.

S 17. Subdivision 2 of section 492-a of the banking law, as added by chapter 142 of the laws of 1992, is amended to read as follows:

2. The superintendent shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of subdivision one of section four hundred ninety-three of this article. The superintendent shall approve or disapprove the application in writing within ninety days after the date the application is [filed with] DEEMED COMPLETE BY the superintendent.

S 18. Subdivision 7 of section 493 of the banking law is REPEALED and subdivision 4, as amended by chapter 132 of the laws of 1969, is amended to read as follows:

4. Each license issued hereunder shall remain in full force and effect until it is surrendered by the licensee [or], revoked [or], TERMINATED OR suspended as provided in this [article] CHAPTER.

S 19. Paragraph (e) of subdivision 1 and subdivision 7 of section 495 of the banking law are REPEALED, and the section heading and subdivisions 2, 3 and 4 as added by chapter 635 of the laws of 1956, and subdivision 5, as amended by chapter 64 of the laws of 1958, are amended to read as follows:

Revocation, suspension [or], TERMINATION OR surrender of licenses

2. [No] (A) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (B), (C) AND (D) OF THIS SUBDIVISION, NO license UNDER THIS ARTICLE shall be suspended or revoked except after a hearing thereon. [The] WHERE A HEARING IS REQUIRED UNDER THIS SECTION, THE superintendent shall give the licensee at least ten days' written notice of the time and place of such hearing by [registered] CERTIFIED mail, RETURN RECEIPT REQUESTED, addressed to the principal place of business in this state of such licensee THEN APPEARING ON THE RECORDS OF THE SUPERINTENDENT. Any order suspending or revoking such license shall recite the grounds upon which it is based [and shall not be effective until ten days after written notice thereof

has been sent by registered mail to the licensee at such principal place of business]. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A SALES FINANCE COMPANY IN THIS STATE. THE SUPERINTENDENT IN HIS OR HER DISCRETION MAY REVOKE OR SUSPEND ONLY THE PARTICULAR LICENSE WITH RESPECT TO WHICH GROUNDS FOR REVOCATION OR SUSPENSION MAY OCCUR OR EXIST; BUT IF HE OR SHE FINDS THAT GROUNDS FOR REVOCATION OR SUSPENSION ARE OF GENERAL APPLICATION TO ALL PLACES OF BUSINESS, OR TO MORE THAN ONE PLACE OF BUSINESS, OPERATED BY SUCH LICENSEE, HE OR SHE SHALL REVOKE OR SUSPEND ALL OF THE LICENSES ISSUED TO SAID LICENSEE OR THOSE LICENSES TO WHICH THE GROUNDS FOR REVOCATION OR SUSPENSION APPLY, AS THE CASE MAY BE.

(B) THE SUPERINTENDENT MAY FOR GOOD CAUSE, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE FOR A PERIOD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENT AS REQUIRED BY THIS CHAPTER.

(D) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE:

(I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO AUTHORITY PROVIDED BY THIS ARTICLE; OR

(II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; OR

(III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY.

3. [The superintendent in his discretion may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist; but if he finds that grounds for revocation or suspension are of general application to all places of business, or to more than one place of business, operated by such licensee, he shall revoke or suspend all of the licenses issued to said licensee or those licenses to which the grounds for revocation or suspension apply, as the case may be.] IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (C) OR (D) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL

BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. Any licensee may surrender any license by delivering to the superintendent written notice that such license is thereby surrendered, but such surrender shall not affect the licensee's civil or criminal liability for acts committed prior [thereto] TO SUCH SURRENDER OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

5. No suspension, revocation, TERMINATION or surrender of any license shall impair or affect the obligation of any instalment contract, obligation or credit agreement lawfully acquired previously thereto by the licensee.

S 20. Subdivisions 3 and 4 of section 497 of the banking law are REPEALED.

S 21. Section 499 of the banking law, as added by chapter 635 of the laws of 1956, is amended to read as follows:

S 499. Violations and penalties. Any person who violates or participates in the violation of any provision of this article, or who knowingly makes any incorrect statement of a material fact in any application, report or statement filed pursuant to this article, or who knowingly omits to state any material fact necessary to give the superintendent any information lawfully required by him OR HER or refuses to permit any lawful investigation or examination, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both, in the discretion of the court.

S 22. Subdivisions 2 and 5 of section 554 of the banking law are REPEALED and a new subdivision 2 is added to read as follows:

2. "BANKING INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, TRUST COMPANY, PRIVATE BANKER, CREDIT UNION OR INVESTMENT COMPANY ORGANIZED UNDER THE BANKING LAW OF THIS STATE, A BRANCH OR AGENCY OF A FOREIGN BANKING CORPORATION LICENSED BY THE SUPERINTENDENT OR THE COMPTROLLER OF THE CURRENCY TO TRANSACT BUSINESS IN THIS STATE, OR ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION OR CREDIT UNION ORGANIZED UNDER THE LAWS OF ANY OTHER STATE OR THE UNITED STATES.

S 23. Subdivision 1 of section 555 of the banking law, as amended by chapter 547 of the laws of 2008, is amended to read as follows:

1. No person except a [lending] BANKING institution [or], an authorized insurer OR A LENDER LICENSED PURSUANT TO ARTICLE NINE OF THIS CHAPTER shall engage in the business of a premium finance agency without a license therefor obtained from the superintendent, as provided in this article. THE TERM "PREMIUM FINANCE AGENCY" DOES NOT INCLUDE A SECONDARY HOLDER OF A PREMIUM FINANCE AGREEMENT. FOR PURPOSES OF THIS ARTICLE, THE TERM "SECONDARY HOLDER" MEANS A PERSON THAT (I) PURCHASES OR OTHERWISE ACQUIRES A PREMIUM FINANCE AGREEMENT, OR AN INTEREST THEREIN, THAT WAS ORIGINATED BY A PERSON LICENSED OR EXEMPT FROM LICENSING UNDER THIS ARTICLE AND THAT IS SERVICED BY A PERSON LICENSED OR EXEMPT FROM LICENSING UNDER THIS ARTICLE, AND (II) HAS NO CONTACT WITH THE OBLIGOR UNDER SUCH AGREEMENT.

S 24. Subdivision 5 of section 556 of the banking law is REPEALED.

S 25. Section 558 of the banking law, as added by chapter 488 of the laws of 1960, is amended to read as follows:

S 558. Change of location. Before any licensee changes any office [of his] to another location, [he] IT shall [give written notice thereof to] FILE A WRITTEN APPLICATION WITH the superintendent, who shall [without

charge issue an endorsement indicating the change and the date thereof, which endorsement shall be attached to the license for such office and be authority for the operation of the business under such license at such new location] AFTER RECEIPT OF THE FEE PRESCRIBED IN SECTION EIGHTEEN-A OF THIS CHAPTER ISSUE A NEW LICENSE FOR THE NEW OFFICE.

S 26. Section 559 of the banking law, as added by chapter 488 of the laws of 1960, paragraph (a) of subdivision 1 as amended by chapter 474 of the laws of 1962, paragraph (b) of subdivision 1 as amended by chapter 1141 of the laws of 1969, subdivision 6 as amended by chapter 310 of the laws of 1962 and subdivision 7 as added by chapter 121 of the laws of 1993, is amended to read as follows:

S 559. Grounds for [revocation] SUSPENSION, REVOCATION OR TERMINATION of license; procedure. 1. [The] IN ADDITION TO THE AUTHORITY PROVIDED BY SUBDIVISION TWO OF THIS SECTION, THE superintendent may [forthwith revoke or] suspend OR REVOKE any license issued [hereunder if] UNDER THIS ARTICLE IF, AFTER NOTICE AND A HEARING, he OR SHE shall find that:

(a) The licensee has failed to pay [the annual license fee or] any sum of money lawfully demanded, or to comply with any demand, ruling, or requirement of the superintendent lawfully made pursuant to and within the authority of this article;

(b) The licensee has violated any provision of this article, the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended or any rule or regulation lawfully made by the superintendent under and within the authority of this article;

(c) Any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the superintendent in refusing originally to issue such license.

2. (A) THE SUPERINTENDENT MAY, FOR GOOD CAUSE, WITHOUT NOTICE OR A HEARING, OR WHERE THERE IS A SUBSTANTIAL RISK OF PUBLIC HARM, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE FOR A PERIOD NOT EXCEEDING NINETY DAYS, PENDING INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENT AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE:

(I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO AUTHORITY PROVIDED BY THIS ARTICLE;

(II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; OR

(III) UPON NOTICE AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY.

3. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER

SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT OR HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. The superintendent may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he OR SHE shall find that such grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by such licensee, he OR SHE shall revoke or suspend all of the licenses issued to such licensee or such number of licenses as such grounds apply to, as the case may be.

[3.] 5. Any licensee may surrender any license by delivering to the superintendent written notice that he OR SHE thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

[4.] 6. No revocation, TERMINATION or suspension or surrender of any license shall impair or affect the obligation of an insured under any lawful premium finance agreement previously acquired or held by the licensee.

[5.] 7. Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, [or] suspended OR TERMINATED in accordance with the provisions of this article, but the superintendent shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked OR TERMINATED if no fact or condition then exists which clearly would have warranted the superintendent in refusing originally to issue such license under this article.

[6.] 8. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, he OR SHE shall forthwith execute in [triplicate] DUPLICATE a written order to that effect. The superintendent shall file one copy of such order in the office of the department, [file another in the office of the clerk of the county in which is located the place designated in such license] and forthwith serve the [third] SECOND copy upon the licensee, which order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized by this section must be commenced within thirty days from the date of such order of suspension or revocation.

[7. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license issued pursuant to this article for a period not exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist only when the licensee has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices

which may cause substantial harm to the persons afforded the protection of this article.]

9. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A PREMIUM FINANCE AGENCY IN THIS STATE.

S 27. Subdivisions 3 and 4 of section 560 of the banking law are REPEALED.

S 28. Section 562 of the banking law is REPEALED.

S 29. Subdivision 1 of section 563 of the banking law, as added by chapter 488 of the laws of 1960, is amended to read as follows:

1. Any person, including any member, officer, director or employee of a licensee, who violates or participates in the violation of any provision of this article, or who knowingly makes any incorrect statement of a material fact in any application, report or statement filed pursuant to this article, or who knowingly omits to state any material fact necessary to give the superintendent any information lawfully required by him or HER OR refuses to permit any lawful investigation or examination, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both, in the discretion of the court.

S 30. Section 576 of the banking law is amended by adding a new subdivision 4 to read as follows:

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

S 31. Subdivision (a) of section 577 of the banking law, as amended by chapter 1 of the laws of 1994, is amended to read as follows:

(a) By any person at a rate of interest not greater than the rate [prescribed by the banking board pursuant to] SET FORTH IN section fourteen-a of this chapter[, or, if no rate has been so prescribed, six per centum per annum]; or

S 32. Subdivisions 3 and 4 of section 580 of the banking law, subdivision 3 as amended by section 50 of part O of chapter 59 of the laws of 2006 and subdivision 4 as added by chapter 629 of the laws of 2002, are amended to read as follows:

3. Upon original application for a license or licenses to operate one or more places of business, the applicant shall pay an investigation fee in an aggregate amount as prescribed pursuant to section eighteen-a of this chapter. No additional investigation fee shall be required for any subsequent application for a license unless such application is subsequent to a denial of a license or to a revocation, suspension or surrender of a license; PROVIDED, HOWEVER, THAT AN APPLICATION TO ESTABLISH A BRANCH OFFICE OF THE LICENSEE SHALL BE ACCOMPANIED BY THE FEE PRESCRIBED IN SECTION EIGHTEEN-A OF THIS CHAPTER.

4. As a condition for the issuance and retention of a budget planner license, and subject to such regulations as the superintendent shall prescribe, applicants for a license shall file with the superintendent a surety bond in form satisfactory to the superintendent issued by a bonding company or insurance company authorized to do business in this state. Except as provided hereunder, the principal amount of such bond shall be two hundred fifty thousand dollars. The superintendent may require a larger bond if he or she determines, in his or her sole discretion, that a licensee has engaged in a pattern of conduct resulting in bona fide consumer complaints of misconduct and that such

increased bond is necessary for the protection of consumers; or the superintendent may increase or decrease the amount of such bond or deposit based upon the applicant's or licensee's financial condition, business plan, and the actual or estimated aggregate amount of payments and fees paid by debtors to such licensee. In lieu of such bond, an applicant may keep on deposit with such banks, savings banks, savings and loan associations, trust companies, private bankers, national banks, federal savings banks, or federal savings and loan associations in the state as such licensee may designate and the superintendent may approve, interest-bearing bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or such other assets or letters of credit as the superintendent shall by rule or regulation permit. The proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse payments by debtors that have not been properly distributed to creditors or to reimburse fees determined by the superintendent to be improperly charged or collected and, in the event of the insolvency, liquidation, or bankruptcy of such licensee, to pay outstanding banking department examination costs and assessments. [Within ninety days after the effective date of this subdivision, each licensee shall comply with the requirements of this subdivision.]

S 33. Subdivision 1 of section 581 of the banking law, as amended by chapter 456 of the laws of 2006, is amended to read as follows:

1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the officers and directors thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, he or she shall thereupon issue a license in duplicate to engage in budget planning in accordance with the provisions of this article. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the banking department. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided; if the superintendent shall not so find he or she shall not issue such license and he or she shall notify the applicant of the denial. The superintendent shall approve or deny IN WRITING every application for license hereunder within ninety days [from the filing thereof] AFTER THE DATE THE APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

S 34. Subdivision 2 of section 583-a of the banking law, as added by chapter 142 of the laws of 1992, is amended to read as follows:

2. The superintendent shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of section five hundred eighty-one of this article. The superintendent shall approve or disapprove the application in writing within ninety days after the date the application is [filed with] DEEMED COMPLETE BY the superintendent.

S 35. Section 584 of the banking law, as added by chapter 448 of the laws of 1975, paragraph (b) as amended by chapter 629 of the laws of 2002, and paragraph (c) of subdivision 1 as added by chapter 629 of the laws of 2002, is amended to read as follows:

S 584. Grounds for suspension [or], revocation OR TERMINATION of license; procedure. 1. [The] IN ADDITION TO THE AUTHORITY SET FORTH IN

SUBDIVISION TWO OF THIS SECTION, THE superintendent may SUSPEND OR revoke any license issued [hereunder if] UNDER THIS ARTICLE IF, AFTER NOTICE AND A HEARING he OR SHE shall find that:

(a) The licensee has violated any provisions of this article, or of any rule or regulation made by the superintendent under and within the authority of this article;

(b) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the superintendent in refusing originally to issue such license; or

(c) The conviction of a licensee for a crime against the laws of this state or any other state or of the United States involving moral turpitude or fraudulent or dishonest actions, or the entry of a final judgement in a court of competent jurisdiction against the licensee in a civil action arising from fraud, misrepresentation, or deceit.

2. (A) The superintendent may, [on] FOR good cause [shown], [suspend] WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING any license ISSUED PURSUANT TO THIS ARTICLE for a period not exceeding [thirty] NINETY days, pending investigation. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST ONLY WHEN THE LICENSEE HAS DEFAULTED OR IS LIKELY TO DEFAULT IN PERFORMING ITS FINANCIAL ENGAGEMENTS OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES WHICH MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF THIS ARTICLE.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENTS AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; (II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT THE LICENSEE HAS FILED A PETITION IN BANKRUPTCY; (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY; OR (IV) IMMEDIATELY UPON THE RECEIPT BY THE SUPERINTENDENT OF NOTICE THAT THE BOND REQUIRED PURSUANT TO SECTION FIVE HUNDRED EIGHTY OF THIS ARTICLE IS NO LONGER IN EFFECT.

3. [No] IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO THE AUTHORITY OF THIS ARTICLE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT, HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED OR HAVING SUCH BOND REINSTATED. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

4. (A) EXCEPT AS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION, NO license shall be revoked or suspended except after notice and a hearing thereon.

[4.] 5. Any licensee may surrender any license by delivering to the superintendent written notice that it thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO ANY PERIOD BEFORE SUCH SURRENDER. SUCH SURRENDER SHALL BECOME EFFECTIVE UPON WRITTEN APPROVAL BY THE SUPERINTENDENT.

[5.] 6. No revocation, suspension, TERMINATION or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

[6.] 7. Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked [or], suspended OR TERMINATED in accordance with the provisions of this article, but the superintendent shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license shall have been revoked if no fact or condition then exists which would have warranted the superintendent in refusing originally to issue such license under this article.

[7.] 8. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, he OR SHE shall forthwith execute in duplicate a written order to that effect. The superintendent shall file one copy of such order in the office of the department of banking and shall forthwith serve the other copy upon the licensee. Any such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such application for review as authorized by this section must be made within thirty days from the date of such order of suspension or revocation.

9. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A BUDGET PLANNER IN THIS STATE.

S 36. Intentionally omitted.

S 37. Subdivision 1 of section 641 of the banking law, as amended by chapter 677 of the laws of 2004, is amended to read as follows:

1. No person shall engage IN THIS STATE in the business of selling or issuing checks, or engage in the business of receiving money for transmission or transmitting the same, without a license therefor obtained from the superintendent as provided in this article, nor shall any person engage in such business as an agent, except as an agent of a licensee or as agent of a payee; provided, however, that nothing in this article shall apply to a bank, trust company, private banker, foreign banking corporation licensed pursuant to article two of this chapter or foreign banking company authorized to operate pursuant to the International Banking Act of 1978 (12 USC 3101 et seq.), as amended, savings bank, savings and loan association, an investment company, a national banking association, federal reserve bank, corporation organized under the provisions of section twenty-five-a of an act of congress entitled the "Federal Reserve Act", federal savings bank, federal savings and loan association or state or federal credit union OR OUT-OF-STATE STATE BANK. A PERSON ENGAGES IN THIS STATE IN THE BUSINESS OF SELLING OR ISSUING CHECKS OR RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING THE SAME IF SUCH PERSON INDUCES ANOTHER PERSON WHO IS A RESIDENT OF, OR LOCATED IN, THIS STATE TO ENTER INTO A TRANSACTION BY SOLICITATION IN OR

INTO THIS STATE BY ANY MEANS, INCLUDING BUT NOT LIMITED TO, MAIL, ELECTRONIC MAIL, TELEPHONE, RADIO, TELEVISION, THE INTERNET OR ANY OTHER ELECTRONIC MEANS.

S 38. Subdivisions 2, 5 and 6 of section 642 of the banking law, as amended by chapter 455 of the laws of 1993, are amended, and two new subdivisions 7 and 8 are added to read as follows:

2. The superintendent shall approve [conditionally] or deny every application for a license hereunder IN WRITING within ninety days [from the filing thereof. Such period of ninety days may be extended, by the written consent of the applicant, for such additional reasonable period of time as may be required to enable compliance with such requirements and conditions as may be provided by this article and the rules or regulations of the superintendent issued thereunder] AFTER THE DATE THE APPLICATION IS DEEMED COMPLETE BY THE SUPERINTENDENT.

5. [No] EXCEPT AS PROVIDED IN SUBDIVISION SIX OF THIS SECTION, NO license shall be suspended or revoked except after a hearing thereon. The superintendent shall give the licensee at least ten days' written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such licensee. Any order of the superintendent suspending or revoking such license shall state the grounds upon which it is based [and shall not be effective until ten days after written notice thereof has been sent by registered or certified mail to the licensee at such principal place of business, except that revocation by reason of the licensee's bond not being kept in full force and effect as required by this article, or by reason of failure to keep on deposit sufficient securities or funds as required by this article, may take effect immediately if the superintendent so orders].

6. (A) The superintendent may, [on] FOR good cause [shown, or where there is a substantial risk of public harm, suspend] WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING any license issued pursuant to this article for a period not exceeding [thirty] NINETY days, pending investigation. "Good cause", as used in this subdivision, shall exist only when the licensee has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

(B) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING THE LICENSE ISSUED HEREUNDER UPON THE FAILURE OF SUCH LICENSEE TO MAKE ANY PAYMENT AS REQUIRED BY THIS CHAPTER.

(C) THE SUPERINTENDENT MAY, IN HIS OR HER SOLE DISCRETION, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE ISSUED HEREUNDER: (I) THIRTY DAYS AFTER THE DATE THE LICENSEE FAILS TO FILE ANY REPORT REQUIRED TO BE FILED BY IT WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; (II) IMMEDIATELY UPON NOTICE TO THE SUPERINTENDENT THAT A LICENSEE HAS FILED A PETITION IN BANKRUPTCY; (III) AT LEAST THIRTY DAYS AFTER THE LICENSEE HAS HAD FILED AGAINST IT A PETITION IN BANKRUPTCY; OR (IV) IMMEDIATELY UPON RECEIPT BY THE SUPERINTENDENT OF NOTICE THAT THE LICENSEE HAS FAILED TO MAINTAIN THE BOND OR SECURITIES REQUIRED BY SECTION SIX HUNDRED FORTY-THREE OF THIS ARTICLE OR FAILED TO MAINTAIN THE INVESTMENTS REQUIRED BY SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE.

7. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SIX OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR

HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE ISSUED PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION SIX OF THIS SECTION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER, INCLUDING, WITHOUT LIMITATION, MAKING ANY OVERDUE PAYMENT, HAVING ANY SUCH BANKRUPTCY PETITION DISMISSED OR REINSTATING SUCH BOND OR INCREASING THE VALUE OF SUCH INVESTMENTS. OTHERWISE, IN THE CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION SIX OF THIS SECTION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH LICENSEE SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

8. WHENEVER A LICENSE SHALL HAVE TERMINATED IN ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE LICENSEE THAT THE LICENSE HAS TERMINATED AND THAT THE LICENSEE MAY NOT ENGAGE IN THE BUSINESS OF A MONEY TRANSMITTER.

S 39. Subdivision 1 of section 643 of the banking law, as amended by chapter 625 of the laws of 2004, is amended to read as follows:

1. As a condition for the issuance and retention of the license, applicants for a license and other licensees shall, within thirty days after notice by the superintendent, or such longer or shorter period as he or she shall prescribe, file with the superintendent one or more corporate surety bond or bonds, as required below, in form satisfactory to him or her and issued by a bonding company or insurance company authorized to do business in this state. One bond shall be in favor of the superintendent and in such principal amount as he or she shall determine is necessary or desirable for the protection of the purchasers and holders of New York instruments sold or to be sold by the applicant or licensee, provided, [however, that until June first, nineteen hundred seventy-seven, the principal amount of such bond shall be no less than two hundred ten thousand dollars and on and after June first, nineteen hundred seventy-seven,] THAT the principal amount of such bond shall be no less than five hundred thousand dollars. If the applicant or licensee intends to engage or engages in the sale of New York traveler's checks, such applicant or licensee shall file with the superintendent a separate bond. Said bond shall be in favor of the superintendent and in such principal amount as he or she shall determine is necessary or desirable for the protection of the purchasers and holders of the New York traveler's checks sold or to be sold by the applicant or licensee; provided, however, that the principal amount of such bond shall not be less than seven hundred fifty thousand dollars, unless the superintendent, for good cause shown, shall have determined that a lesser amount will adequately protect the purchasers and holders of the New York traveler's checks sold or to be sold by such applicant or licensee.

In making any determination under this subdivision, the superintendent may take into account the financial condition of the licensee, the number of locations in this state at which the licensee, either directly or through agents, transacts the business of selling New York instruments or New York traveler's checks, the controls imposed on such agents or, and the possible exposure of purchasers and holders of New York instruments and New York traveler's checks to loss in the event of the insolvency, bankruptcy or other financial impairment of the licensee. The proceeds of each bond shall constitute a trust fund for the exclu-

sive benefit of the purchasers and holders of the New York instruments [and] OR New York traveler's checks, as the case may be. Except as otherwise provided in the following sentence, in the event of the insolvency or bankruptcy of any licensee, the proceeds of the bond or bonds held for the exclusive benefit of the purchasers and holders of New York instruments and the proceeds of the bond or bonds held for the exclusive benefit of the purchasers and holders of New York traveler's checks shall be paid to the superintendent forthwith for disposition in accordance with the provisions of this article. If any New York instruments have been assigned to the fund, the proceeds of the bond held for the exclusive benefit of the purchasers and holders of New York instruments shall constitute a trust fund for the benefit of, and shall be payable to, the fund to the extent of such assignment. From time to time, the superintendent may require, upon thirty days notice or such longer or shorter period as he or she shall prescribe, that such bond or bonds be increased if he or she shall determine that such increase is necessary or desirable for the protection of the purchasers and holders of New York instruments and New York traveler's checks.

S 40. Subdivision 4 of section 646 of the banking law is REPEALED.

S 41. Section 647 of the banking law, as amended by chapter 455 of the laws of 1993, is amended to read as follows:

S 647. Judicial review. [The refusal by the superintendent of an original license, in the case of an applicant which, prior to January first, nineteen hundred sixty-three, and upon the date of filing such application, has lawfully been engaged in this state in the business of selling or issuing checks or of receiving money for transmission or transmitting the same, and in] IN all cases INVOLVING the suspension or revocation of any license by the superintendent, SUCH SUSPENSION OR REVOCATION shall be subject to judicial review in the manner in such cases made and provided by law.

S 42. Subdivision 2 of section 650 of the banking law, as amended by chapter 543 of the laws of 1990, is amended to read as follows:

2. a. Any person who either (1) engages in the business of receiving money for transmission or transmitting the same or (2) sells or issues New York instruments or New York traveler's checks as those terms are defined by section six hundred fifty-three of this chapter, without a license therefor obtained from the superintendent as provided in this article, shall be guilty of a [Class] CLASS A misdemeanor.

b. Any person who violates paragraph a of this subdivision and in the course of that violation:

(1) knowingly receives or agrees to receive for transmission from one or more individuals a total of ten thousand dollars or more in a single transaction, a total of twenty-five thousand dollars or more during a period of thirty days or less, or a total of two hundred fifty thousand dollars or more during a period of one year or less; or

(2) knowingly sells or issues New York instruments or New York traveler's checks to one or more individuals totaling ten thousand dollars or more in a single transaction, a total of twenty-five thousand dollars or more during a period of thirty days or less, or a total of two hundred fifty thousand dollars or more during a period of one year or less SHALL BE GUILTY OF A CLASS E FELONY; [or

(3)] C. ANY PERSON WHO VIOLATES PARAGRAPH A OF THIS SUBDIVISION AND IN THE COURSE OF THAT VIOLATION:

(1) knowingly engages in the business of receiving money for transmitting or transmitting the same, knowing such money to be the proceeds of any criminal conduct; or

[(4)] (2) knowingly sells or issues New York instruments or New York traveler's checks as those terms are defined by section six hundred fifty-three of this chapter, knowing such instruments or checks to be purchased with the proceeds of or derived from any criminal conduct; shall be guilty of a class [E] D felony.

S 43. Section 651 of the banking law, as amended by chapter 677 of the laws of 2004, is amended to read as follows:

S 651. Investments. Every licensee shall at all times maintain permissible investments having (i) a market value, computed in accordance with generally accepted accounting principles, at least equal to the aggregate of the amount of all its outstanding payment instruments and all its outstanding traveler's checks or (ii) a net carrying value, computed in accordance with generally accepted accounting principles, at least equal to the aggregate of the amount of all its outstanding payment instruments and all its outstanding traveler's checks so long as the market value of such permissible investments is at least [eighty] NINETY per centum of the net carrying value. Notwithstanding the foregoing provisions of this section, the superintendent shall have the authority, for good cause shown, to exempt from the requirements of this section any licensee.

S 44. Section 657 of the banking law, as amended by chapter 78 of the laws of 1977, is amended to read as follows:

S 657. Payments to the fund. In the event the fund has borrowed any monies from the property and liability insurance security fund pursuant to the provisions of section six hundred fifty-eight of this [chapter] ARTICLE, and has any debt outstanding thereto, or in the event an uninsured transmitter of money is declared, or declares itself, insolvent or defaults on its New York instruments, the fund shall levy an assessment upon each uninsured transmitter of money. The amount of such assessment shall be determined by the superintendent provided, however, that each uninsured transmitter of money shall be assessed ratably, in proportion to the average of the dollar amounts of the New York instruments issued by such uninsured transmitter of money outstanding at the end of each calendar quarter for the calendar year preceding that in which the assessment is made, and provided, further, that no such assessments shall be levied once the net value of the fund shall equal such amount as the superintendent shall have determined to be necessary to protect the interests of the purchasers and holders of New York instruments. In making his OR HER determination, the superintendent shall consider the scope of the risk covered by the fund, the expenses incurred or expected to be incurred by the fund, the amount of any loans and advances to the fund, and the interest thereon.

In no event shall the total amount so assessed in any one year against any uninsured transmitter of money pursuant to this section exceed [two per centum of the] ONE PERCENT OF THE ANNUAL VOLUME OF New York instruments of such uninsured transmitter of money [which were outstanding at the end of] FOR the calendar year preceding that in which such assessments are made or one hundred twenty-five thousand dollars, whichever is less. The net value of the fund shall be determined by deducting from the value of the assets of the fund the aggregate actual and estimated liabilities of the fund as determined by the superintendent.

S 45. This act shall take effect immediately.