

4979

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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

AN ACT to amend the banking law, in relation to the operation of automated teller machines by entities other than banking institutions

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

1 Section 1. The banking law is amended by adding a new article 14-A to
2 read as follows:

3 ARTICLE 14-A

4 REGISTERED AUTOMATED TELLER MACHINE OPERATORS AND NETWORKS

5 SECTION 800. DEFINITIONS.

6 801. REGISTRATION REQUIRED.

7 802. REGISTRATION OF NETWORKS.

8 803. APPLICATION TO REGISTER AS AN OPERATOR OF AUTOMATED TELLER
9 MACHINES.

10 804. CHANGES OF CONTROL.

11 805. EXAMINATION OF BOOKS, ACCOUNTS, AND RECORDS; INVESTI-
12 GATIONS.

13 806. VIOLATIONS AND PENALTIES.

14 807. SUSPENSION OR REVOCATION OF REGISTRATION

15 808. REQUIRED DISCLOSURES TO CUSTOMERS.

16 809. RULES AND REGULATIONS.

17 810. SEVERABILITY.

18 S 800. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHER-
19 WISE INDICATES, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

20 1. "BANKING INSTITUTION" SHALL MEAN ANY BANK, TRUST COMPANY, SAVINGS
21 BANK, SAVINGS ASSOCIATION, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION OR
22 FOREIGN BANKING CORPORATION LICENSED, CHARTERED, OR INCORPORATED OR
23 OTHERWISE FORMED PURSUANT TO FEDERAL OR ANY STATE LAW.

24 2. "AUTOMATED TELLER MACHINE" SHALL MEAN AN ELECTRONIC DEVICE OPERATED
25 BY A PERSON WHICH, IN CONJUNCTION WITH A PROCESSOR AND NETWORK, ALLOWS A

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

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1 CUSTOMER TO DEBIT AN ACCOUNT IN EXCHANGE FOR DISPENSING CASH AND THAT
2 MAY ALLOW A CUSTOMER TO EFFECTUATE OTHER ACCOUNT TRANSACTIONS; PROVIDED
3 HOWEVER SUCH TERM SHALL NOT BE DEEMED TO INCLUDE ANY AUTOMATED TELLER
4 MACHINE OR SIMILAR ELECTRONIC DEVICE OPERATED BY A BANKING INSTITUTION
5 OR A SUBSIDIARY OR SERVICE CORPORATION OF A BANKING INSTITUTION, A
6 POINT-OF-SALE TERMINAL, OR A COMPUTER TERMINAL OWNED OR OPERATED BY A
7 CUSTOMER TO ACCESS HIS OR HER DEPOSIT ACCOUNT WITHIN A BANKING INSTITU-
8 TION.

9 3. "OPERATE" SHALL MEAN TO CONNECT AN AUTOMATED TELLER MACHINE TO ONE
10 OR MORE NETWORKS.

11 4. "NETWORK" SHALL MEAN AN ELECTRONIC SYSTEM FOR TRANSMITTING ITEMS
12 AND MESSAGES BETWEEN BANKING INSTITUTIONS, PROCESSORS, AND AUTOMATED
13 TELLER MACHINES OR SIMILAR ELECTRONIC DEVICES.

14 5. "OPERATOR" SHALL MEAN A PERSON THAT OPERATES AN AUTOMATED TELLER
15 MACHINE AND WHO, BY VIRTUE OF THE SPONSORSHIP OF A BANKING INSTITUTION,
16 IS ADMITTED AS A PARTICIPANT INTO ONE OR MORE NETWORKS.

17 6. "PERSON" SHALL MEAN AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMIT-
18 ED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP, ASSOCIATION OR
19 ANY OTHER ENTITY, OTHER THAN A BANKING INSTITUTION.

20 7. "PROCESSOR" SHALL MEAN ANY PERSON WHO OR WHICH ELECTRONICALLY
21 ACQUIRES FINANCIAL DATA EMANATING FROM AN AUTOMATED TELLER MACHINE AND
22 RELAYS THAT DATA TO A NETWORK.

23 8. "SERVICING AGENT" SHALL MEAN A PERSON WHO CONTRACTS WITH A REGIS-
24 TERED OPERATOR TO PROVIDE CUSTOMER RELATIONS, FINANCIAL RECORDKEEPING,
25 OR ANY OTHER SERVICE IN REGARD TO AN AUTOMATED TELLER MACHINE.

26 9. "ELECTRONIC" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN
27 SECTION THREE HUNDRED TWO OF THE STATE TECHNOLOGY LAW AS RENUMBERED BY
28 CHAPTER FOUR HUNDRED THIRTY-SEVEN OF THE LAWS OF TWO THOUSAND FOUR.

29 10. "CUSTOMER" SHALL MEAN AN INDIVIDUAL WHO CONDUCTS, OR ATTEMPTS TO
30 CONDUCT, THROUGH USE OF AN AUTOMATED TELLER MACHINE, A DEBIT OR OTHER
31 FINANCIAL TRANSACTION PERTAINING TO HIS OR HER ACCOUNT OR ACCOUNTS AT A
32 BANKING INSTITUTION OR PERTAINING TO THE USE OF ANY OTHER TYPE OF CARD
33 WHICH MAY BE USED TO OBTAIN CASH FROM SUCH MACHINE.

34 S 801. REGISTRATION REQUIRED. NO PERSON THAT IS SPONSORED BY A BANKING
35 INSTITUTION AND UPON SUCH SPONSORSHIP IS ADMITTED INTO A NETWORK AS A
36 BANKING INSTITUTION-SPONSORED PARTICIPANT SHALL, ON OR AFTER JUNE FIRST,
37 TWO THOUSAND TEN, OPERATE AN AUTOMATED TELLER MACHINE, IF SUCH MACHINE
38 IS LOCATED WITHIN THIS STATE, WITHOUT FIRST BEING REGISTERED BY THE
39 SUPERINTENDENT AS AN OPERATOR OF AUTOMATED TELLER MACHINES PURSUANT TO
40 THIS ARTICLE; PROVIDED HOWEVER THAT THE REGISTRATION PROVISIONS OF THIS
41 SECTION SHALL NOT APPLY TO A SUBSIDIARY OF A BANKING INSTITUTION.

42 S 802. REGISTRATION OF NETWORKS. ANY NETWORK TRANSMITTING ITEMS OR
43 MESSAGES BETWEEN BANKING INSTITUTIONS, PROCESSORS AND AUTOMATED TELLER
44 MACHINES OF REGISTERED OPERATORS SHALL REGISTER WITH THE SUPERINTENDENT.
45 THE SUPERINTENDENT SHALL PRESCRIBE BY REGULATION THE METHOD OF SUCH
46 REGISTRATION AND ANY REQUIREMENTS RELATING THERETO. ANY SUCH NETWORKS
47 SHALL NOT BE SUBJECT TO ANY OTHER PROVISIONS OF THIS CHAPTER, EXCEPT
48 SECTIONS THIRTY-NINE AND FORTY-FOUR OF THIS CHAPTER AND AS OTHERWISE MAY
49 BE REQUIRED BY THIS ARTICLE. NO REGISTERED OPERATOR SHALL TRANSMIT
50 MESSAGES OR ITEMS UPON OR THROUGH NETWORKS THAT ARE NOT REGISTERED BY
51 THE SUPERINTENDENT AND DO NOT MAINTAIN OPERATIONAL AND PERFORMANCE STAND-
52 DARDS ACCEPTABLE TO THE SUPERINTENDENT.

53 S 803. APPLICATION TO REGISTER AS AN OPERATOR OF AUTOMATED TELLER
54 MACHINES. 1. UPON THE FILING OF AN APPLICATION FOR REGISTRATION, IF THE
55 SUPERINTENDENT SHALL FIND THE FINANCIAL RESPONSIBILITY, EXPERIENCE,
56 CHARACTER, AND GENERAL FITNESS OF THE APPLICANT, AND OF THE OFFICERS AND

1 DIRECTORS THEREOF IF THE APPLICANT IS A CORPORATION, ARE SUCH AS TO
2 COMMAND THE CONFIDENCE OF THE COMMUNITY AND TO WARRANT BELIEF THAT THE
3 BUSINESS WILL BE OPERATED HONESTLY, FAIRLY, AND EFFICIENTLY WITHIN THE
4 PURPOSE OF THIS ARTICLE, THE SUPERINTENDENT SHALL THEREUPON REGISTER THE
5 APPLICANT AS AN OPERATOR OF AUTOMATED TELLER MACHINES AND ISSUE A
6 CERTIFICATE ATTESTING TO SUCH REGISTRATION IN DUPLICATE. THE SUPERINTEN-
7 DENT SHALL TRANSMIT ONE COPY OF SUCH CERTIFICATE TO THE APPLICANT AND
8 FILE ANOTHER IN HIS OR HER OFFICE. IF THE SUPERINTENDENT SHALL NOT SO
9 FIND, THE SUPERINTENDENT SHALL NOT REGISTER SUCH APPLICANT AND SHALL
10 NOTIFY THE APPLICANT OF SUCH DENIAL IN WRITING. SUCH REGISTRATION SHALL
11 REMAIN IN FULL FORCE AND EFFECT UNTIL IT IS SURRENDERED BY THE REGIS-
12 TERED OPERATOR OR REVOKED OR SUSPENDED PURSUANT TO THIS CHAPTER,
13 PROVIDED THAT SUCH REGISTRATION SHALL BE SUSPENDED UPON NOTICE BY THE
14 SUPERINTENDENT FOR FAILURE TO PAY ANY ASSESSMENT CHARGED TO SUCH REGIS-
15 TERED OPERATOR PURSUANT TO SECTION SEVENTEEN OF THIS CHAPTER UPON THE
16 DATE ANY SUCH PAYMENT IS DUE. UPON SUCH SUSPENSION, NO REGISTERED OPERA-
17 TOR SHALL OPERATE OR ESTABLISH ANY AUTOMATED TELLER MACHINE.

18 2. THE SUPERINTENDENT MAY REFUSE TO ISSUE A CERTIFICATE PURSUANT TO
19 THIS ARTICLE IF HE OR SHE SHALL FIND THAT THE APPLICANT, OR ANY PERSON
20 WHO IS A DIRECTOR, OFFICER, PARTNER, EMPLOYEE OR SUBSTANTIAL STOCKHOLDER
21 OF OR CONSULTANT TO SUCH APPLICANT (I) HAS BEEN CONVICTED OF A CRIME
22 INVOLVING AN ACTIVITY WHICH IS A FELONY UNDER THIS CHAPTER OR UNDER
23 ARTICLES ONE HUNDRED FIFTY-FIVE, ONE HUNDRED SEVENTY, ONE HUNDRED SEVEN-
24 TY-FIVE, ONE HUNDRED SEVENTY-SIX, ONE HUNDRED EIGHTY, ONE HUNDRED EIGHT-
25 Y-FIVE, ONE HUNDRED NINETY, TWO HUNDRED TEN OR FOUR HUNDRED SEVENTY OF
26 THE PENAL LAW OR ANY COMPARABLE FELONY UNDER THE LAWS OF ANY OTHER STATE
27 OR THE UNITED STATES, PROVIDED THAT SUCH CRIME WOULD BE A FELONY IF
28 COMMITTED AND PROSECUTED UNDER THE LAWS OF THIS STATE, OR (II) HAS HAD A
29 REGISTRATION REVOKED BY THE SUPERINTENDENT, OR (III) HAS BEEN A DIREC-
30 TOR, PARTNER, OR SUBSTANTIAL STOCKHOLDER OF AN ENTITY WHICH HAS HAD A
31 REGISTRATION REVOKED BY THE SUPERINTENDENT, OR (IV) HAS BEEN AN EMPLOYEE
32 OR OFFICER OF, OR A CONSULTANT TO, AN ENTITY WHICH HAS HAD A REGISTRA-
33 TION REVOKED BY THE SUPERINTENDENT WHERE SUCH PERSON SHALL HAVE BEEN
34 FOUND BY THE SUPERINTENDENT TO BEAR RESPONSIBILITY IN CONNECTION WITH
35 SUCH REVOCATION. THE TERM "SUBSTANTIAL STOCKHOLDER" AS USED IN THIS
36 ARTICLE SHALL BE DEEMED TO REFER TO A PERSON WHO POSSESSES, DIRECTLY OR
37 INDIRECTLY, THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT
38 AND POLICIES OF A CORPORATION OR ANY OTHER ENTITY, WHETHER THROUGH THE
39 OWNERSHIP OF VOTING STOCK OF ANY CORPORATION OR THROUGH THE OWNERSHIP OF
40 VOTING STOCK OF ANY PERSON WHICH POSSESSES SUCH POWER OR OTHERWISE. THE
41 POWER TO SO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES
42 OF A CORPORATION SHALL BE PRESUMED TO EXIST IF ANY PERSON, DIRECTLY OR
43 INDIRECTLY, OWNS, CONTROLS OR HOLDS WITH POWER TO VOTE TEN PER CENTUM OR
44 MORE OF THE VOTING STOCK OF ANY CORPORATION.

45 3. APPLICATION FOR A REGISTRATION REQUIRED UNDER THIS ARTICLE SHALL BE
46 IN WRITING, UNDER OATH, AND IN THE FORM PRESCRIBED BY THE SUPERINTEN-
47 DENT, AND SHALL CONTAIN THE FOLLOWING INFORMATION:

48 (A) THE EXACT NAME OF THE APPLICANT AND, IF INCORPORATED OR OTHERWISE
49 FORMED, THE DATE AND THE STATE OF SUCH INCORPORATION OR FORMATION;

50 (B) THE COMPLETE BUSINESS ADDRESS OF THE PRINCIPAL OFFICE FROM WHICH
51 BUSINESS IS TO BE CONDUCTED, AND WHERE THE BOOKS AND RECORDS OF THE
52 APPLICANT ARE MAINTAINED AND TO BE MAINTAINED, SHOWING THE STREET,
53 NUMBER IF ANY, THE ZIP CODE, AND THE MUNICIPALITY OR COUNTY;

54 (C) THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT, IF AN INDIVIDUAL
55 OR, IF A PARTNERSHIP, OF ITS PARTNERS OR, IF A CORPORATION OR ASSOCI-

1 ATION, OF THE DIRECTORS, AND PRINCIPAL OFFICERS THEREOF, AND OF ANY
2 STOCKHOLDER OWNING TEN PER CENTUM OR MORE OF AND CLASS OF ITS STOCK; AND
3 (D) SUCH OTHER PERTINENT INFORMATION AS THE SUPERINTENDENT MAY
4 REQUIRE.

5 4. EACH REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL STATE THE
6 PRINCIPAL BUSINESS ADDRESS OF SUCH REGISTERED OPERATOR AND SHALL FULLY
7 STATE THE NAME OF SUCH REGISTERED OPERATOR AND THE DATE AND PLACE OF ITS
8 INCORPORATION OR FORMATION IF APPLICABLE. SUCH REGISTRATION SHALL NOT BE
9 TRANSFERABLE OR ASSIGNABLE. IN THE EVENT THE LOCATION AT WHICH THE PRIN-
10 CIPAL PLACE OF BUSINESS IS TO BE CONDUCTED SHALL BE CHANGED, THE REGIS-
11 TERED OPERATOR SHALL FORTHWITH NOTIFY THE SUPERINTENDENT WHO SHALL THER-
12 EUPON ATTACH TO THE REGISTRATION SETTING FORTH SUCH CHANGED LOCATION.

13 5. UPON ANY CHANGE OF THE OFFICERS, PARTNERS OR DIRECTORS OF ANY
14 REGISTERED OPERATOR, SUCH REGISTERED OPERATOR SHALL SUBMIT TO THE SUPER-
15 INTENDENT THE NAME, ADDRESS AND OCCUPATION OF EACH NEW OFFICER, PARTNER
16 OR DIRECTOR, AND PROVIDE SUCH OTHER INFORMATION AS THE SUPERINTENDENT
17 MAY REQUIRE.

18 S 804. CHANGES OF CONTROL. 1. IT SHALL BE UNLAWFUL EXCEPT WITH THE
19 PRIOR APPROVAL OF THE SUPERINTENDENT FOR ANY ACTION TO BE TAKEN WHICH
20 RESULTS IN A CHANGE OF CONTROL OF THE BUSINESS OF A REGISTERED OPERATOR.
21 PRIOR TO ANY CHANGE OF CONTROL, THE PERSON DESIROUS OF ACQUIRING CONTROL
22 OF THE BUSINESS OF A REGISTERED OPERATOR SHALL MAKE WRITTEN APPLICATION
23 TO THE SUPERINTENDENT. THE APPLICATION SHALL CONTAIN SUCH INFORMATION AS
24 THE SUPERINTENDENT MAY PRESCRIBE AS NECESSARY OR APPROPRIATE FOR THE
25 PURPOSE OF MAKING THE DETERMINATION REQUIRED BY SUBDIVISION TWO OF THIS
26 SECTION.

27 2. THE SUPERINTENDENT SHALL APPROVE OR DISAPPROVE THE PROPOSED CHANGE
28 OF CONTROL OF A REGISTERED OPERATOR IN ACCORDANCE WITH THE PROVISIONS OF
29 SECTION EIGHT HUNDRED THREE OF THIS ARTICLE RELATING TO REGISTRATION OF
30 OPERATORS. IF THE SUPERINTENDENT DISAPPROVES SUCH APPLICATION, OR IF NO
31 SUCH APPLICATION HAS BEEN MADE, UPON CONSUMMATION OF THE ACQUISITION OF
32 CONTROL, THE CERTIFICATE OF THE REGISTERED OPERATOR SHALL BECOME NULL
33 AND VOID AND THE APPLICANT OR SUCH REGISTERED OPERATOR, WHICHEVER HAS
34 POSSESSION OF SUCH CERTIFICATE, SHALL FORTHWITH SURRENDER TO THE SUPER-
35 INTENDENT THE REGISTRATION THERETOFORE IN EFFECT.

36 3. FOR A PERIOD OF SIX MONTHS FROM THE DATE OF APPOINTMENT OR QUALI-
37 FICATION THEREOF AND FOR SUCH ADDITIONAL PERIOD OF TIME AS THE SUPER-
38 INTENDENT MAY PRESCRIBE, IN WRITING, THE PROVISIONS OF SUBDIVISIONS ONE
39 AND TWO OF THIS SECTION SHALL NOT APPLY TO THE TRANSFER OF CONTROL BY
40 OPERATION OF LAW TO THE LEGAL REPRESENTATIVE, AS HEREINAFTER DEFINED, OF
41 ONE WHO HAS CONTROL OF A REGISTERED OPERATOR. THEREAFTER, SUCH LEGAL
42 REPRESENTATIVE SHALL COMPLY WITH THE PROVISIONS OF SUBDIVISIONS ONE AND
43 TWO OF THIS SECTION. THE PROVISIONS OF SUCH SUBDIVISIONS SHALL BE APPLI-
44 CABLE TO AN APPLICATION MADE UNDER SUCH SECTION BY A LEGAL REPRESENTATIVE.
45 THE TERM "LEGAL REPRESENTATIVE", FOR PURPOSES OF THIS SECTION,
46 SHALL MEAN ONE DULY APPOINTED BY A COURT OF COMPETENT JURISDICTION TO
47 ACT AS EXECUTOR, ADMINISTRATOR, TRUSTEE, COMMITTEE, CONSERVATOR OR
48 RECEIVER, INCLUDING ONE WHO SUCCEEDS A LEGAL REPRESENTATIVE AND ONE
49 ACTING IN AN ANCILLARY CAPACITY THERETO IN ACCORDANCE WITH THE
50 PROVISIONS OF SUCH COURT APPOINTMENT.

51 4. AS USED IN THIS SECTION, THE TERM "CONTROL" MEANS THE POSSESSION,
52 DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF
53 THE MANAGEMENT AND POLICIES OF A REGISTERED OPERATOR, WHETHER THROUGH
54 THE OWNERSHIP OF VOTING STOCK OF SUCH REGISTERED OPERATOR OR THROUGH THE
55 OWNERSHIP OF VOTING STOCK OF ANY PERSON WHICH POSSESSES SUCH POWER OR
56 OTHERWISE. CONTROL SHALL BE PRESUMED TO EXIST IF ANY PERSON, DIRECTLY OR

1 INDIRECTLY, OWNS, CONTROLS OR HOLDS WITH POWER TO VOTE TEN PER CENTUM OR
2 MORE OF THE VOTING STOCK OF ANY REGISTERED OPERATOR, BUT NO PERSON SHALL
3 BE DEEMED TO CONTROL A REGISTERED OPERATOR SOLELY BY REASON OF BEING AN
4 OFFICER OR DIRECTOR OF SUCH REGISTERED OPERATOR OR PERSON. THE SUPER-
5 INTENDENT MAY IN HIS OR HER DISCRETION, UPON APPLICATION OF A REGISTERED
6 OPERATOR OR ANY PERSON WHO, DIRECTLY OR INDIRECTLY, OWNS, CONTROLS OR
7 HOLDS WITH POWER TO VOTE OR SEEKS TO OWN, CONTROL OR HOLD WITH POWER TO
8 VOTE ANY VOTING STOCK OF SUCH REGISTERED OPERATOR, DETERMINE WHETHER OR
9 NOT THE OWNERSHIP, CONTROL OR HOLDING OF SUCH VOTING STOCK CONSTITUTES
10 OR WOULD CONSTITUTE CONTROL OF SUCH REGISTERED OPERATOR FOR PURPOSES OF
11 THIS SECTION.

12 S 805. EXAMINATION OF BOOKS, ACCOUNTS, AND RECORDS; INVESTIGATIONS. 1.
13 (A) FOR THE PURPOSE OF DISCOVERING VIOLATIONS OF THIS ARTICLE OR SECUR-
14 ING INFORMATION LAWFULLY REQUIRED HEREUNDER, THE SUPERINTENDENT MAY AT
15 ANY TIME, AS OFTEN AS MAY BE DETERMINED, EITHER PERSONALLY OR BY A
16 PERSON DULY DESIGNATED BY THE SUPERINTENDENT, INVESTIGATE THE BUSINESS
17 AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES USED THEREIN OF
18 EVERY REGISTERED OPERATOR AND ANY SERVICING AGENT OR PROCESSOR WITH
19 RESPECT TO ANY CONTRACTS OR AGREEMENTS THAT SUCH AGENT OR PROCESSOR MAY
20 HAVE WITH ANY SUCH REGISTERED OPERATOR. FOR THAT PURPOSE, THE SUPER-
21 INTENDENT AND DULY DESIGNATED REPRESENTATIVES SHALL HAVE FREE ACCESS TO
22 THE OFFICES AND PLACE OF BUSINESS, BOOKS, ACCOUNTS, PAPERS, RECORDS,
23 FILES, SAFES AND VAULTS, AND LOCATIONS OF ALL AUTOMATED TELLER MACHINES
24 OF SUCH REGISTERED OPERATOR, SERVICING AGENT OR PROCESSOR.

25 (B) WHENEVER A REGISTERED OPERATOR, OR ANY SUBSIDIARY OR AFFILIATE OF
26 SUCH REGISTERED OPERATOR, CAUSES TO BE PERFORMED FOR SUCH REGISTERED
27 OPERATOR, BY CONTRACT OR OTHERWISE, ANY SERVICES RELATED TO, DIRECTLY OR
28 INDIRECTLY, THE AUTOMATED TELLER MACHINES WHICH SUCH REGISTERED OPERATOR
29 OPERATES, SUCH PERFORMANCE SHALL BE SUBJECT TO REGULATION AND EXAMINA-
30 TION BY THE SUPERINTENDENT TO THE SAME EXTENT AS IF SUCH SERVICES WERE
31 BEING PERFORMED BY THE REGISTERED OPERATOR ITSELF AND SUCH REGISTERED
32 OPERATOR SHALL NOTIFY THE SUPERINTENDENT OF THE EXISTENCE OF THE SERVICE
33 RELATIONSHIP WITHIN THIRTY DAYS AFTER THE MAKING OF SUCH SERVICE
34 CONTRACT OR THE PERFORMANCE OF THE SERVICE, WHICHEVER OCCURS FIRST.

35 (C) FOR PURPOSES OF EVALUATING THE OPERATIONS AND PERFORMANCE OF ANY
36 REGISTERED NETWORK, THE SUPERINTENDENT SHALL INVESTIGATE THE BUSINESS
37 AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES USED THEREIN OF
38 EVERY REGISTERED NETWORK. THE EXPENSES INCURRED IN MAKING ANY INVESTI-
39 GATIONS AND EXAMINATIONS OF, OR FOR SPECIAL SERVICES PERFORMED ON
40 ACCOUNT OF, ANY REGISTERED NETWORK SHALL BE ASSESSED AGAINST AND PAID BY
41 THE REGISTERED NETWORK FOR WHICH THEY WERE INCURRED OR PERFORMED.

42 2. ALL REPORTS OF INVESTIGATIONS AND OTHER REPORTS RENDERED PURSUANT
43 TO THIS SECTION, AND ALL CORRESPONDENCE AND MEMORANDA CONCERNING OR
44 ARISING OUT OF SUCH INVESTIGATIONS OR REPORTS, INCLUDING ANY DULY
45 AUTHENTICATED COPY OR COPIES THEREOF IN POSSESSION OF ANY REGISTERED
46 OPERATOR, SERVICING AGENT, PROCESSOR OR REGISTERED NETWORK SHALL BE
47 CONFIDENTIAL COMMUNICATIONS AND SUBJECT TO THE PROVISIONS OF SUBDIVISION
48 TEN OF SECTION THIRTY-SIX OF THIS CHAPTER.

49 3. ANY REGISTERED OPERATOR OR REGISTERED NETWORK THAT FAILS TO MAKE
50 ANY REPORT REQUIRED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE, ON
51 OR BEFORE THE DAY DESIGNATED FOR THE MAKING THEREOF, FAILS TO INCLUDE
52 THEREIN ANY PRESCRIBED MATERIAL, OR INCLUDES ANY FALSE OR MISLEADING
53 INFORMATION THEREIN, SHALL BE SUBJECT TO SUCH ENFORCEMENT AND PENALTIES
54 AS MAY BE PRESCRIBED BY THIS CHAPTER.

55 S 806. VIOLATIONS AND PENALTIES. 1. A REGISTERED OPERATOR THAT
56 VIOLATES ANY PROVISION OF THIS ARTICLE OR OTHER APPLICABLE PROVISIONS OF

1 THIS CHAPTER, OR ANY RULE OR REGULATION PRESCRIBED BY THE SUPERINTENDENT
2 PURSUANT TO THIS ARTICLE OR OF ANY OTHER LAW, RULE OR REGULATION OF THIS
3 STATE OR THE FEDERAL GOVERNMENT OR THAT THROUGH ANY UNFAIR, UNCONSCIONA-
4 BLE, OR DECEPTIVE PRACTICE CAUSES ACTUAL DAMAGE TO A CUSTOMER, SHALL BE
5 SUBJECT TO SECTIONS THIRTY-NINE AND FORTY-FOUR OF THIS CHAPTER, AND
6 SUSPENSION OR REVOCATION OF THE OPERATOR'S REGISTRATION PURSUANT TO
7 SECTION EIGHT HUNDRED SEVEN OF THIS ARTICLE.

8 2. A PERSON THAT OPERATES AN AUTOMATED TELLER MACHINE PURSUANT TO THIS
9 ARTICLE WITHOUT BEING REGISTERED BY THE SUPERINTENDENT SHALL BE GUILTY
10 OF A CLASS A MISDEMEANOR.

11 3. A PERSON THAT OPERATES A MACHINE THAT WOULD OTHERWISE BE CONSIDERED
12 AN AUTOMATED TELLER MACHINE PURSUANT TO THIS ARTICLE, EXCEPT THAT SUCH
13 MACHINE IS NOT OPERATED IN CONJUNCTION WITH A NETWORK, SHALL BE GUILTY
14 OF A CLASS C FELONY.

15 4. NOTHING IN THIS ARTICLE SHALL LIMIT ANY STATUTORY OR COMMON-LAW
16 RIGHT OF ANY PERSON, REGISTERED OPERATOR OR REGISTERED NETWORK TO BRING
17 ANY ACTION IN ANY COURT FOR ANY ACT, OR THE RIGHT OF THE STATE TO PUNISH
18 ANY PERSON, OPERATOR OR NETWORK FOR VIOLATION OF ANY LAW.

19 5. IF ANY UNREGISTERED PERSON OPERATES AN AUTOMATED TELLER MACHINE, OR
20 A MACHINE THAT WOULD OTHERWISE BE CONSIDERED AN AUTOMATED TELLER MACHINE
21 PURSUANT TO THIS ARTICLE, EXCEPT THAT SUCH MACHINE IS NOT OPERATED IN
22 CONJUNCTION WITH A NETWORK, HE OR SHE SHALL BE LIABLE TO ANY PERSON FOR
23 A SUM OF MONEY NOT LESS THAN AN AMOUNT EQUAL TO ANY MONETARY LOSS AND
24 ANY OTHER DAMAGES AND EXPENSES INCURRED BY SUCH PERSON AS A RESULT OF
25 THE THEFT OF SUCH PERSON'S PERSONAL IDENTIFICATION AND ACCOUNT INFORMA-
26 TION THAT RESULTS FROM THE USE, OR ATTEMPTED USE, OF SUCH AUTOMATED
27 TELLER MACHINE, NOR MORE THAN FOUR TIMES SUCH SUM. SUCH SUM MAY BE SUED
28 FOR AND RECOVERED BY ANY PERSON FOR HIS OR HER BENEFIT USE AND BENEFIT
29 IN ANY COURT OF COMPETENT JURISDICTION.

30 S 807. SUSPENSION OR REVOCATION OF REGISTRATION. 1. AFTER NOTICE AND
31 HEARING, THE SUPERINTENDENT MAY FINE SUCH REGISTERED OPERATOR AND
32 SUSPEND OR REVOKE AN OPERATOR'S REGISTRATION IF HE OR SHE FINDS THAT:

33 (A) THROUGH A COURSE OF CONDUCT, THE REGISTERED OPERATOR HAS VIOLATED
34 ANY PROVISIONS OF THIS ARTICLE OR ANY OTHER APPLICABLE PROVISIONS OF
35 THIS CHAPTER, OR ANY RULE OR REGULATION PRESCRIBED BY THE SUPERINTENDENT
36 PURSUANT TO THIS ARTICLE OR OF ANY OTHER LAW, RULE OR REGULATION OF THIS
37 STATE OR THE FEDERAL GOVERNMENT;

38 (B) ANY FACT OR CONDITION EXISTS, WHICH IF IT HAD EXISTED AT THE TIME
39 OF THE ORIGINAL APPLICATION FOR SUCH REGISTRATION, WOULD HAVE WARRANTED
40 THE SUPERINTENDENT IN REFUSING ORIGINALLY TO ISSUE SUCH REGISTRATION; OR

41 (C) THE COMMISSION BY A REGISTERED OPERATOR OF A CRIME AGAINST THE
42 LAWS OF THIS STATE OR ANY OTHER STATE OR OF THE UNITED STATES INVOLVING
43 MORAL TURPITUDE OR FRAUDULENT OR DISHONEST DEALING, OR THE ENTRY OF A
44 FINAL JUDGMENT AGAINST A REGISTERED OPERATOR IN A CIVIL ACTION UPON
45 GROUNDS OF FRAUD, MISREPRESENTATION OR DECEIT.

46 2. PENDING AN INVESTIGATION OR A HEARING FOR THE SUSPENSION OR REVO-
47 CATION OF A REGISTRATION ISSUED TO AN OPERATOR PURSUANT TO THIS ARTICLE,
48 THE SUPERINTENDENT MAY TEMPORARILY SUSPEND SUCH REGISTRATION FOR A PERI-
49 OD NOT TO EXCEED NINETY DAYS, PROVIDED THE SUPERINTENDENT SHALL FIND
50 THAT SUCH A TEMPORARY SUSPENSION IS IN THE PUBLIC INTEREST.

51 3. ANY REGISTERED OPERATOR MAY SURRENDER ITS REGISTRATION CERTIFICATE
52 BY DELIVERING TO THE SUPERINTENDENT WRITTEN NOTICE THAT IT HEREBY
53 SURRENDERS SUCH CERTIFICATE, BUT SUCH SURRENDER SHALL NOT AFFECT SUCH
54 REGISTERED OPERATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED
55 PRIOR TO SUCH SURRENDER. IF SUCH SURRENDER IS MADE AFTER THE ISSUANCE BY
56 THE SUPERINTENDENT OF A STATEMENT OF CHARGES AND NOTICE OF HEARING, THE

1 SUPERINTENDENT MAY PROCEED AGAINST THE REGISTERED OPERATOR AS IF SUCH
2 SURRENDER HAD NOT TAKEN PLACE.

3 4. EVERY REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL REMAIN IN
4 FORCE AND EFFECT UNTIL THE SAME SHALL HAVE BEEN SURRENDERED, REVOKED OR
5 SUSPENDED IN ACCORDANCE WITH ANY OTHER PROVISIONS OF THIS ARTICLE, BUT
6 THE SUPERINTENDENT SHALL HAVE AUTHORITY TO REINSTATE A SUSPENDED REGIS-
7 TRATION CERTIFICATE OR TO ISSUE A NEW CERTIFICATE TO A REGISTERED OPERA-
8 TOR WHOSE REGISTRATION SHALL HAVE BEEN REVOKED IF NO FACT OR CONDITION
9 THEN EXISTS WHICH WOULD HAVE WARRANTED THE SUPERINTENDENT IN REFUSING
10 ORIGINALLY TO ISSUE SUCH REGISTRATION UNDER THIS ARTICLE.

11 5. WHENEVER THE SUPERINTENDENT SHALL REVOKE OR SUSPEND A REGISTRATION
12 ISSUED PURSUANT TO THIS ARTICLE, HE OR SHE SHALL FORTHWITH EXECUTE IN
13 DUPLICATE A WRITTEN ORDER TO THAT EFFECT. THE SUPERINTENDENT SHALL FILE
14 ONE COPY OF SUCH ORDER IN HIS OR HER OFFICE AND SHALL FORTHWITH SERVE
15 THE OTHER COPY UPON THE REGISTERED OPERATOR. ANY SUCH ORDER MAY BE
16 REVIEWED IN THE MANNER PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL
17 PRACTICE LAW AND RULES. SUCH APPLICATION FOR REVIEW AS AUTHORIZED PURSU-
18 ANT TO THIS SECTION MUST BE MADE WITHIN THIRTY DAYS FROM THE DATE OF
19 SUCH ORDER OF SUSPENSION OR REVOCATION.

20 S 808. REQUIRED DISCLOSURES TO CUSTOMERS. 1. DISCLOSURE OF PERTINENT
21 INFORMATION. A REGISTERED OPERATOR SHALL CLEARLY AND CONSPICUOUSLY
22 DISCLOSE ON A SIGN POSTED ON THE AUTOMATED TELLER MACHINE OR IN CLEAR
23 VIEW OF A CUSTOMER VIEWING SUCH MACHINE:

24 (A) THE NAME OF THE REGISTERED OPERATOR;

25 (B) A DISCLAIMER INDICATING THAT THE REGISTERED OPERATOR IS NOT A
26 BANKING INSTITUTION;

27 (C) THE NAME, ADDRESS, AND TWENTY-FOUR-HOUR TOLL-FREE TELEPHONE NUMBER
28 WHERE A CUSTOMER MAY DIRECT INQUIRIES OR COMPLAINTS;

29 (D) A STATEMENT THAT THE OPERATOR IS REGISTERED BY THE BANKING DEPART-
30 MENT, AND THE ADDRESS AND A TOLL-FREE TELEPHONE NUMBER OF THE DEPARTMENT
31 WHERE INQUIRIES OR COMPLAINTS MAY BE DIRECTED.

32 2. FEE DISCLOSURE. A REGISTERED OPERATOR SHALL NOT CHARGE A FEE FOR
33 USE OF AN AUTOMATED TELLER MACHINE UNLESS SUCH OPERATOR COMPLIES WITH
34 THE FEE DISCLOSURE REQUIREMENTS OF SECTION THREE HUNDRED NINETY-NINE-Y
35 OF THE GENERAL BUSINESS LAW, AS ADDED BY CHAPTER FOUR HUNDRED
36 NINETY-FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-NINE.

37 3. RECEIPT FOR TRANSACTION. AN AUTOMATED TELLER MACHINE SHALL PROVIDE
38 A RECEIPT FOR THE TRANSACTION THAT SHALL INCLUDE THE FOLLOWING INFORMA-
39 TION IN A CLEAR AND CONSPICUOUS MANNER:

40 (A) THE AMOUNT OF THE TRANSACTION;

41 (B) THE AMOUNT OF ANY FEE IMPOSED BY THE REGISTERED OPERATOR;

42 (C) THE TOTAL AMOUNT DEBITED TO THE CUSTOMER'S ACCOUNT, INCLUDING ANY
43 FEE IMPOSED BY THE REGISTERED OPERATOR;

44 (D) THE DATE AND TIME OF THE TRANSACTION;

45 (E) A NUMBER OR CODE THAT IDENTIFIES THE CUSTOMER AND THE ACCOUNT
46 ACCESSED IN A MANNER THAT ENSURES THE CUSTOMER'S PRIVACY; AND

47 (F) THE LOCATION, OR A NUMBER OR CODE THAT IDENTIFIES THE LOCATION,
48 OF THE AUTOMATED TELLER MACHINE.

49 S 809. RULES AND REGULATIONS. IN ADDITION TO SUCH POWERS AS MAY OTHER-
50 WISE BE PRESCRIBED BY THIS CHAPTER, THE SUPERINTENDENT IS HEREBY AUTHOR-
51 IZED AND EMPOWERED TO PROMULGATE REGULATIONS CONSISTENT WITH THE
52 PURPOSES OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO:

53 1. SUCH RULES AND REGULATIONS, IN CONNECTION WITH THE OPERATION OF
54 AUTOMATED TELLER MACHINES, AS MAY BE NECESSARY OR APPROPRIATE TO QUALIFY
55 THE TERMS AND CONDITIONS OF AGREEMENTS WITH OR CONTRACTS BETWEEN REGIS-

1 TERED OPERATORS AND SERVICE AGENTS OR PROCESSORS IN ORDER TO ENSURE THE
2 PROTECTION OF CUSTOMERS USING AUTOMATED TELLER MACHINES IN THIS STATE;

3 2. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
4 DEFINE IMPROPER OR FRAUDULENT PRACTICES AND OPERATIONAL AND PERFORMANCE
5 STANDARDS APPLICABLE TO THE ACTIVITIES OF REGISTERED OPERATORS AND
6 REGISTERED NETWORKS FOR THE PURPOSE OF PREVENTING, AMONG OTHER CRIMINAL
7 ACTS, THE OCCURRENCE OF MONEY LAUNDERING AND CUSTOMER IDENTITY AND
8 ACCOUNT INFORMATION THEFT;

9 3. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
10 REQUIRE REGISTERED OPERATORS AND REGISTERED NETWORKS TO MAKE REPORTS OF
11 INFORMATION IN SUCH FORM AND UPON SUCH DATES AS PRESCRIBED BY THE SUPER-
12 INTENDENT; AND

13 4. SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO
14 INTERPRET, IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS ARTICLE.

15 S 810. SEVERABILITY. IF ANY WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH,
16 SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPE-
17 TENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR
18 OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERA-
19 TION TO THE WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART
20 THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH JUDGMENT SHALL
21 HAVE BEEN RENDERED.

22 S 2. Section 22 of the banking law, as amended by chapter 553 of the
23 laws of 2007, is amended to read as follows:

24 S 22. Fingerprints. (a) Notwithstanding any other provision of law,
25 every applicant for a license, authorization or registration under arti-
26 cles nine, nine-A, eleven-B, twelve-B, twelve-C, twelve-D, twelve-E
27 [and], thirteen-B AND FOURTEEN-A of this chapter and every applicant
28 filing an application to acquire control of any licensee or registrant,
29 as the case may be, under such articles shall submit simultaneously with
30 an application, his or her fingerprints in such form and in such manner
31 as specified by the division of criminal justice services, but in any
32 event, no less than two digit imprints. The superintendent shall submit
33 such fingerprints to the division of criminal justice services for the
34 purpose of conducting a criminal history search and returning a report
35 thereon in accordance with the procedures and requirements established
36 by the division pursuant to the provisions of article thirty-five of the
37 executive law, which shall include the payment of the prescribed proc-
38 essing fees. The superintendent shall request that the division submit
39 such fingerprints to the federal bureau of investigation, together with
40 the processing fees prescribed by such bureau, for the purpose of
41 conducting a criminal history search and returning a report thereon. An
42 applicant OR REGISTRANT shall not be required to submit his or her fing-
43 erprints as required by this subdivision if such applicant OR REGISTRANT
44 (i) is already subject to regulation by the department and the applicant
45 OR REGISTRANT has submitted such fingerprints to the department, such
46 fingerprints have been submitted to the division of criminal justice
47 services for the purpose of conducting a criminal history search, and a
48 report of such search has been received by the department from such
49 division; or (ii) is subject to regulation by a federal bank regulatory
50 agency and has submitted such fingerprints to such agency which has had
51 a criminal history search conducted of such individual and has shared
52 such information or its determination resulting from such search with
53 the department; or (iii) is an officer or stockholder of a corporation
54 whose common or preferred stock is registered on a national securities
55 exchange, as provided in an act of congress of the United States enti-
56 tled the "Securities Exchange Act of 1934", approved June sixth, nine-

1 teen hundred thirty-four, as amended, or such other exchange or market
2 system as the superintendent shall approve by regulation, and has
3 submitted such fingerprints to such exchange or market system which has
4 had a criminal history search conducted of such individual and has
5 shared such information or its determination resulting from such search
6 with the department; provided, however, that the superintendent may
7 subsequently require such applicant OR REGISTRANT to submit his or her
8 fingerprints if the superintendent has a reasonable basis for updating
9 the information or determination resulting from the report of the criminal
10 history search conducted at the request of such federal banking
11 agency, exchange or market system.

12 (b) The superintendent shall also, concurrent with an investigation of
13 a licensee or registrant, or an authorized individual, pertaining to a
14 violation of this chapter, submit such fingerprints to the division of
15 criminal justice services for the purpose of conducting a criminal
16 history search and returning a report thereon and through the division
17 to the federal bureau of investigation for the purpose of a fingerprint
18 check of such licensee, registrant or authorized individual.

19 (c) For purposes of this section, "applicant" OR "REGISTRANT" shall
20 include a natural person or such principal, officer, director, trustee
21 or stockholder of any other entity as may be designated by the superintendent.
22 Notwithstanding any other provision of this article, the
23 superintendent shall not access criminal history data or information,
24 unless any agency from which the superintendent receives directly criminal
25 history data or information has entered into a use and dissemination
26 agreement with the superintendent consistent with the provisions of this
27 section.

28 S 3. Subdivisions 1, 2 and 5 of section 39 of the banking law, as
29 amended by chapter 472 of the laws of 2008, are amended to read as
30 follows:

31 1. To appear and explain an apparent violation. Whenever it shall
32 appear to the superintendent that any banking organization, bank holding
33 company, registered mortgage broker, licensed mortgage banker, registered
34 mortgage loan servicer, authorized mortgage loan originator, licensed
35 lender, licensed casher of checks, REGISTERED OPERATOR OF AUTOMATED
36 TELLER MACHINES, REGISTERED NETWORK, licensed sales finance company,
37 licensed insurance premium finance agency, licensed transmitter of
38 money, licensed budget planner, out-of-state state bank that maintains a
39 branch or branches or representative or other offices in this state, or
40 foreign banking corporation licensed by the superintendent to do business
41 or maintain a representative office in this state has violated any
42 law or regulation, he or she may, in his or her discretion, issue an
43 order describing such apparent violation and requiring such banking
44 organization, bank holding company, registered mortgage broker, licensed
45 mortgage banker, authorized mortgage loan originator, licensed lender,
46 licensed casher of checks, REGISTERED OPERATOR OF AUTOMATED TELLER
47 MACHINES, REGISTERED NETWORK, licensed sales finance company, licensed
48 insurance premium finance agency, licensed transmitter of money,
49 licensed budget planner, out-of-state state bank that maintains a branch
50 or branches or representative or other offices in this state, or foreign
51 banking corporation to appear before him or her, at a time and place
52 fixed in said order, to present an explanation of such apparent
53 violation.

54 2. To discontinue unauthorized or unsafe and unsound practices. When-
55 ever it shall appear to the superintendent that any banking organiza-
56 tion, bank holding company, registered mortgage broker, licensed mort-

1 gage banker, registered mortgage loan servicer, authorized mortgage loan
2 originator, licensed lender, licensed casher of checks, REGISTERED OPER-
3 ATOR OF AUTOMATED TELLER MACHINES, REGISTERED NETWORK, licensed sales
4 finance company, licensed insurance premium finance agency, licensed
5 transmitter of money, licensed budget planner, out-of-state state bank
6 that maintains a branch or branches or representative or other offices
7 in this state, or foreign banking corporation licensed by the super-
8 intendent to do business in this state is conducting business in an
9 unauthorized or unsafe and unsound manner, he or she may, in his or her
10 discretion, issue an order directing the discontinuance of such unau-
11 thorized or unsafe and unsound practices, and fixing a time and place at
12 which such banking organization, bank holding company, registered mort-
13 gage broker, licensed mortgage banker, registered mortgage loan servi-
14 cer, authorized mortgage loan originator, licensed lender, licensed
15 casher of checks, REGISTERED OPERATOR OF AUTOMATED TELLER MACHINES,
16 REGISTERED NETWORK, licensed sales finance company, licensed insurance
17 premium finance agency, licensed transmitter of money, licensed budget
18 planner, out-of-state state bank that maintains a branch or branches or
19 representative or other offices in this state, or foreign banking corpo-
20 ration may voluntarily appear before him or her to present any explana-
21 tion in defense of the practices directed in said order to be discontin-
22 ued.

23 5. To keep books and accounts as prescribed. Whenever it shall appear
24 to the superintendent that any banking organization, bank holding compa-
25 ny, registered mortgage broker, licensed mortgage banker, registered
26 mortgage loan servicer, authorized mortgage loan originator, licensed
27 lender, licensed casher of checks, REGISTERED OPERATOR OF AUTOMATED
28 TELLER MACHINES, REGISTERED NETWORK, licensed sales finance company,
29 licensed insurance premium finance agency, licensed transmitter of
30 money, licensed budget planner, agency or branch of a foreign banking
31 corporation licensed by the superintendent to do business in this state,
32 does not keep its books and accounts in such manner as to enable him or
33 her to readily ascertain its true condition, he or she may, in his or
34 her discretion, issue an order requiring such banking organization, bank
35 holding company, registered mortgage broker, licensed mortgage banker,
36 registered mortgage loan servicer, authorized mortgage loan originator,
37 licensed lender, licensed casher of checks, REGISTERED OPERATOR OF AUTO-
38 MATED TELLER MACHINES, REGISTERED NETWORK, licensed sales finance compa-
39 ny, licensed insurance premium finance agency, licensed transmitter of
40 money, licensed budget planner, or foreign banking corporation, or the
41 officers or agents thereof, or any of them, to open and keep such books
42 or accounts as he or she may, in his or her discretion, determine and
43 prescribe for the purpose of keeping accurate and convenient records of
44 its transactions and accounts.

45 S 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
46 as amended by chapter 472 of the laws of 2008, is amended to read as
47 follows:

48 (a) Without limiting any power granted to the superintendent under any
49 other provision of this chapter, the superintendent may, in a proceeding
50 after notice and a hearing, require any safe deposit company, licensed
51 lender, licensed casher of checks, licensed sales finance company,
52 licensed insurance premium finance agency, licensed transmitter of
53 money, licensed mortgage banker, registered mortgage broker, REGISTERED
54 OPERATOR OF AUTOMATED TELLER MACHINES, REGISTERED NETWORK, authorized
55 mortgage loan originator, registered mortgage loan servicer or licensed
56 budget planner to pay to the people of this state a penalty for any

1 violation of this chapter, any regulation promulgated thereunder, any
2 final or temporary order issued pursuant to section thirty-nine of this
3 article, any condition imposed in writing by the superintendent or bank-
4 ing board in connection with the grant of any application or request, or
5 any written agreement entered into with the superintendent.
6 S 5. This act shall take effect on the one hundred eightieth day after
7 it shall have become a law; provided, however, that sections three and
8 four of this act shall take effect on the same date and in the same
9 manner as section 25 of chapter 472 of the laws of 2008, takes effect;
10 provided that the superintendent of banks is authorized to promulgate
11 any and all rules and regulations and take any other measures necessary
12 to implement this act on its effective date on or before such date,
13 including providing for the registration of current operators of auto-
14 mated teller machines and networks as defined pursuant to this act on or
15 before June 1, 2010.