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

3745

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

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

AN ACT to amend the banking law, in relation to fees charged by banking institutions and services provided by such banking institutions

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

Section 1. Legislative intent. The legislature finds and declares that legislation is necessary to prevent banking institutions from generating excessive profits from services which are basic to the banking industry. In addition, the legislature finds that excessive fees imposed are confiscatory and exclusionary in nature, as well as contrary to good public policy.

S 2. The banking law is amended by adding a new section 6-n to read as follows:

S 6-N. USE OF DEPOSITORIES. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL ENTER INTO OR RENEW OR EXTEND ANY AGREEMENT OR CONTRACT TO USE AS A DEPOSITORY ANY BANKING INSTITUTION WHICH CHARGES FEES OF TWO PERCENT OR MORE ABOVE THE FAIR AND REASONABLE PROCESSING FEES ESTABLISHED BY THE BANKING BOARD PURSUANT TO SECTION FOURTEEN-G OF THIS CHAPTER.

2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, SHALL USE AS A DEPOSITORY ANY BANKING INSTITUTION WHICH CHARGES FEES FOR BASIC TELLER SERVICES IN VIOLATION OF THE RULES AND REGULATIONS OF THE BANKING BOARD PROMULGATED PURSUANT TO THE PROVISIONS OF SECTION FOURTEEN-G OF THIS CHAPTER.

3. FOR PURPOSES OF THIS SECTION, THE TERM BANKING INSTITUTION SHALL HAVE THE SAME MEANING AS USED IN SECTION NINE-F OF THIS ARTICLE.

S 3. The banking law is amended by adding a new section 9-v to read as follows:

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

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S 9-V. AUTOMATED TELLER SERVICES. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT AND THE BANKING BOARD SHALL DEVELOP AND PROMULGATE RULES AND REGULATIONS REQUIRING ANY BANKING INSTITUTION, AS DEFINED IN SECTION NINE-F OF THIS ARTICLE, WHICH PROVIDES AUTOMATED TELLER MACHINE SERVICE TO PROVIDE SUCH SERVICE TO BOTH DEPOSITORS AND NONDEPOSITORS.

S 4. The banking law is amended by adding a new section 14-g to read as follows:

S 14-G. POWER OF THE BANKING BOARD TO RESTRICT THE CHARGING OF FEES FOR BASIC TELLER SERVICES AND TO DEVELOP A SCHEDULE OF FEES AND PROCESSING RATES. 1. FOR THE PURPOSES OF THIS SECTION:

(A) THE TERM "BASIC TELLER SERVICES" SHALL MEAN A WITHDRAWAL FROM OR DEPOSIT TO A CONSUMER TRANSACTION ACCOUNT AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION FOURTEEN-F OF THIS ARTICLE; EXCEPT THAT "BASIC TELLER SERVICES" SHALL NOT INCLUDE A TRANSACTION MADE WITH AN AUTOMATED TELLER MACHINE;

(B) THE TERM "DISCOUNT PLAN" SHALL MEAN A CONSUMER TRANSACTION ACCOUNT, AS THAT TERM IS DEFINED IN PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION FOURTEEN-F OF THIS ARTICLE, RESTRICTING THE NUMBER OF FREE BASIC TELLER SERVICES TRANSACTIONS PER PERIODIC CYCLE AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND ESTABLISHING A FEE FOR SUCH SERVICES IN EXCESS OF SUCH NUMBER OF FREE BASIC TELLER SERVICES TRANSACTIONS.

2. IN ADDITION TO ANY OTHER REQUIREMENTS PROVIDED BY LAW, THE BANKING BOARD SHALL PROMULGATE RULES AND REGULATIONS TO REQUIRE AND INSURE THAT NO BANKING INSTITUTION, AS THAT TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION FOURTEEN-F OF THIS ARTICLE, SHALL CHARGE CONSUMERS A FEE FOR BASIC TELLER SERVICES EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

3. ANY BANKING INSTITUTION, AS THAT TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION FOURTEEN-F OF THIS ARTICLE, ESTABLISHING A DISCOUNT PLAN MAY CHARGE CONSUMERS A FEE FOR BASIC TELLER SERVICES, PROVIDED THAT, SUCH DISCOUNT PLAN PROVIDES AT LEAST FOUR BASIC TELLER SERVICES FREE OF CHARGE PER PERIODIC CYCLE.

4. IN ADDITION TO ANY OTHER REQUIREMENTS PROVIDED BY LAW, THE BANKING BOARD SHALL DEVELOP A SCHEDULE OF FAIR AND REASONABLE RATES FOR ALL BANKING TRANSACTIONS WHICH RESULT IN FEES TO THE CONSUMER INCLUDING, BUT NOT LIMITED TO, ATM WITHDRAWALS, OVERDRAFT PROCESSING, CHECKING ACCOUNT MAINTENANCE, PRINTING OF CHECKS AND ACCOUNT TRANSFERS.

S 5. Paragraph (b) of subdivision 2 of section 14-f of the banking law, as added by chapter 1 of the laws of 1994, is amended to read as follows:

(b) the maximum amount a banking institution may require as a minimum balance, if any, to maintain such account, PROVIDED THAT SUCH BANKING INSTITUTION SHALL PROVIDE MINIMAL CHECKING ACCOUNT SERVICES WITHOUT REQUIRING A MINIMUM BALANCE;

S 6. This act shall take effect on the ninetieth day after it shall have become a law; provided that the banking board, the state of New York and any political subdivision thereof may take any action necessary for the timely implementation of this act on its effective date on or before such date.