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

5946--B

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to establishing the empire state commission to improve the regulation of financial services

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

Section 1. The banking law is amended by adding a new article 17 to read as follows:

ARTICLE 17

EMPIRE STATE COMMISSION TO IMPROVE THE REGULATION OF FINANCIAL SERVICES

SECTION 9030. LEGISLATIVE INTENT.
9031. EMPIRE STATE COMMISSION TO IMPROVE THE REGULATION OF FINANCIAL SERVICES.
9032. MEMBERS.
9033. PURPOSES OF THE COMMISSION.

S 9030. LEGISLATIVE INTENT. NEW YORK IS THE HISTORIC FINANCIAL CAPITAL OF THE WORLD, AND TO MAINTAIN ITS PLACE IT IS ESSENTIAL TO HAVE A MODERNIZED AND EFFICIENT REGULATORY SYSTEM. THERE HAVE BEEN FUNDAMENTAL CHANGES IN THE GLOBAL FINANCIAL MARKETS SINCE THE LEGISLATURE LAST COMPREHENSIVELY EXAMINED NEW YORK'S STATUTORY FRAMEWORK FOR THE REGULATION OF THE FINANCIAL INDUSTRY. THE COMMERCIAL ACTIVITIES OF FINANCIAL SERVICES FIRMS HAVE INCREASED IN SCOPE AND COMPLEXITY, BEYOND THE EFFECTIVE OVERSIGHT AND MANAGEMENT OF EXISTING REGULATORY SCHEMES.

IN THE WAKE OF THE NATIONAL AND STATE FINANCIAL CRISES AND SCANDALS, THERE IS WIDESPREAD INTEREST FROM ELECTED OFFICIALS, CONSUMER ADVOCATES AND OTHER REFORMERS TO ENHANCE AND STRENGTHEN THE STATE'S FINANCIAL

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

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REGULATIONS TO PREVENT SIMILAR CRISES IN THE FUTURE, AND SOFTEN THE IMPACT OF THE CURRENT CRISES ON VICTIMS AND COMMUNITIES. GIVEN THE FRAGILITY OF MANY FINANCIAL INSTITUTIONS, THE ASSEMBLY AND SENATE MUST RESTORE CONFIDENCE IN NEW YORK'S FINANCIAL AND REGULATORY SCHEME AND PROTECT NEW YORKERS AGAINST FUTURE ABUSES. STATE ACTIONS AND DECISION-MAKING REGARDING THE REGULATION OF FINANCIAL SERVICES SHOULD BE BASED ON CLEARLY IDENTIFIED POLICIES AND LONG-RANGE ECONOMIC OBJECTIVES AND STRATEGIES.

S 9031. EMPIRE STATE COMMISSION TO IMPROVE THE REGULATION OF FINANCIAL SERVICES. THE EMPIRE STATE COMMISSION TO IMPROVE THE REGULATION OF FINANCIAL SERVICES IS HEREBY ESTABLISHED TO PROMOTE INNOVATIVE AND EFFECTIVE FINANCIAL REGULATION, AND TO ENHANCE CONSUMER PROTECTION.

S 9032. MEMBERS. 1. THE COMMISSION SHALL CONSIST OF TWENTY-SIX TOTAL MEMBERS; TEN SHALL BE APPOINTED BY THE GOVERNOR, FIVE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, FIVE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY, TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY, THE ATTORNEY GENERAL OR HIS OR HER REPRESENTATIVE AND THE STATE COMPTROLLER OR HIS OR HER REPRESENTATIVE. THE GOVERNOR SHALL APPOINT A CHAIR OF THE COMMISSION. THE MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, HOWEVER, THEY SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

2. THE CHAIR OF THE COMMISSION MAY DESIGNATE AN EXECUTIVE STAFF REPRESENTATIVE TO PARTICIPATE ON THE COMMISSION ON THEIR BEHALF. A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM, AND ALL ACTIONS AND RECOMMENDATIONS OF THE COMMISSION SHALL REQUIRE APPROVAL OF A MAJORITY OF THE TOTAL MEMBERS OF THE COMMISSION.

3. THE APPOINTED MEMBERS OF THE COMMISSION SHALL BE INDIVIDUALS WITH SIGNIFICANT EXPERIENCE IN THE FINANCIAL SERVICES INDUSTRY.

S 9033. PURPOSES OF THE COMMISSION. 1. IT SHALL BE THE DUTY OF THE COMMISSION TO:

(A) CONDUCT A COMPREHENSIVE REVIEW OF NEW YORK'S FINANCIAL SERVICES, STATUTES, RULES, REGULATIONS AND POLICIES IN ORDER TO MODERNIZE REGULATIONS AND REDUCE UNNECESSARY BURDENS AND COSTS ON BUSINESSES, INCREASE OPPORTUNITIES FOR VICTIM ASSISTANCE OR RECOVERY, AND TO STRENGTHEN ANTI-FRAUD LAWS AND INCREASE ENFORCEMENT;

(B) EXPLORE INSTITUTING, WHERE APPROPRIATE, A "PRINCIPLES-BASED" REGULATORY STRUCTURE, THAT RELIES ON PRINCIPLES AND OUTCOME-FOCUSED RULES RATHER THAN DETAILED RULES PRESCRIBING HOW OUTCOMES MUST BE ACHIEVED, RESULTING IN A CLOSER FIT FOR FIRMS BETWEEN MEETING BUSINESS OBJECTIVES AND COMPLYING WITH REGULATORY REQUIREMENTS;

(C) IDENTIFY WAYS IN WHICH REGULATORY POWERS MAY BE INTEGRATED, RATIONALIZED, AND CHANGED IN ORDER TO PROMOTE ECONOMIC INNOVATION AND PROTECT CONSUMERS;

(D) RECOMMEND SPECIFIC CHANGES IN STATUTES AND REGULATIONS THAT PROMOTE COMPETITION AND THE GROWTH OF BUSINESS, WHILE EFFECTIVELY PROTECTING BOTH CONSUMERS AND BUSINESSES FROM UNFAIR OR UNETHICAL PRACTICES;

(E) ENSURE THAT ALL STATUTES AND REGULATIONS SERVE A BENEFICIAL PURPOSE AND DO NOT IMPOSE COSTS HIGHER THAN ANY BENEFITS THEY PROVIDE;

(F) RECOMMEND SPECIFIC REFORMS TO DEVELOP THE CAPABILITIES OF REGULATORY AUTHORITIES TO ENSURE THAT THEY HAVE THE EXPERIENCE, EXPERTISE, JUDGMENT AND KNOWLEDGE TO MAKE PRINCIPLES-BASED REGULATION WORK;

(G) AS PART OF UNDERTAKING ITS REVIEW AND AT ITS DISCRETION, REQUEST DOCUMENTS, CONDUCT PUBLIC HEARINGS, HEAR THE TESTIMONY OF WITNESSES, AND TAKE ANY OTHER ACTION IT DEEMS NECESSARY TO CARRY OUT ITS FUNCTIONS;

(H) CONSULT WITH AND SEEK TO MAXIMIZE INPUT FROM STATE DEPARTMENTS, AGENCIES, AND PUBLIC AUTHORITIES, AS WELL AS PRIVATE AND PUBLIC ENTITIES, WITH RESPECT TO THE DEVELOPMENT OF THEIR RECOMMENDATIONS; AND

(I) ISSUE SUCH INTERIM REPORTS AS IT DEEMS NECESSARY AND APPROPRIATE, AND SHALL ISSUE ITS FINAL REPORT AND RECOMMENDATIONS ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN. ALL REPORTS SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY AND THE CHAIRS OF THE SENATE AND ASSEMBLY BANKS COMMITTEES.

2. EVERY AGENCY, DEPARTMENT, OFFICE, DIVISION OR PUBLIC AUTHORITY OF THIS STATE, OR ANY SUBDIVISION THEREOF, SHALL COOPERATE WITH THE COMMISSION AND FURNISH SUCH INFORMATION AND ASSISTANCE AS THE COMMISSION DETERMINES IS REASONABLY NECESSARY TO ACCOMPLISH ITS PURPOSE.

S 2. This act shall take effect one year after it shall have become a law.