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

8928--B

I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. NOLAN, JACOBS, ESPINAL, CASTRO, P. RIVERA, DINOWITZ, BARRON, ROBINSON, JAFFEE, ENGLEBRIGHT, MILLMAN, LINARES, ROBERTS, HOOPER, M. MILLER, RAMOS, WEPRIN, O'DONNELL -- Multi-Sponsored by -- M. of A. ARROYO, BOYLAND, BRONSON, COOK, CRESPO, GABRYSZAK, GIBSON, GLICK, ORTIZ, PERRY, REILLY, N. RIVERA, STEVENSON -- read once and referred to the Committee on Banks -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to requiring transmitters of money to provide a certain warning to consumers

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 section 652-c to read as follows:

S 652-C. REQUIRED WARNING. 1. A PERSON ENGAGED IN THE BUSINESS OF RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING MONEY BY WIRE OR ELECTRONIC TRANSFER WHICH, AT THE REQUEST OF AN INDIVIDUAL WHO IN PERSON, BY TELEPHONE OR ELECTRONIC MEANS TRANSMITS FUNDS TO ANOTHER PERSON, BUSINESS OR ENTITY, SHALL CLEARLY AND PROMINENTLY WARN THE PERSON REQUESTING THE TRANSMISSION PRIOR TO COMPLETING SUCH TRANSMISSION OF FUNDS. SUCH WARNING SHALL CONTAIN AT THE MINIMUM THE FOLLOWING STATEMENTS:

(A) "WARNING: DO NOT FALL VICTIM TO CONSUMER FRAUD."

(B) "ARE YOU SENDING MONEY TO CLAIM LOTTERY WINNINGS?"

(C) "ARE YOU SENDING MONEY BECAUSE YOU WERE GUARANTEED A CREDIT CARD OR LOAN?"

(D) "ARE YOU RESPONDING TO AN INTERNET OR PHONE OFFER THAT YOU ARE NOT SURE IS HONEST?"

(E) "ARE YOU SENDING MONEY TO SOMEONE YOU DO NOT KNOW OR WHOSE IDENTITY YOU CANNOT VERIFY?"

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

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(F) "ASK THE SALES CLERK OR REPRESENTATIVE TO STOP YOUR TRANSFER RIGHT AWAY IF YOU HAVE ANY QUESTIONS OR ARE UNSURE ABOUT THE NATURE OF YOUR TRANSACTION. IT COULD BE FRAUD."

2. FOR THE PURPOSES OF THIS SECTION, "CLEARLY AND PROMINENTLY" MEANS: (A) IN WRITTEN COMMUNICATIONS, INCLUDING PRINT AND THOSE MADE THROUGH AN ELECTRONIC MEDIUM (SUCH AS VIDEO AND INTERACTIVE MEDIA INCLUDING, BUT NOT LIMITED TO, THE INTERNET, ONLINE SERVICES, AND ELECTRONIC MAIL) THE WARNING SHALL APPEAR ON THE SAME FORM AS THE FORM USED TO AUTHORIZE THE TRANSMISSION OF FUNDS, SHALL BE IN A TYPE SIZE SUFFICIENTLY NOTICEABLE FOR AN ORDINARY CONSUMER TO READ AND COMPREHEND THE WRITTEN WARNING AND SHALL BE IN A TYPE THAT CONTRASTS WITH THE BACKGROUND AGAINST WHICH THE WRITTEN WARNING APPEARS; AND (B) IN ORAL COMMUNICATIONS, THE WARNING SHALL BE DELIVERED IN A VOLUME AND CADENCE SUFFICIENT FOR AN ORDINARY CONSUMER TO HEAR AND COMPREHEND. IF ANY COMMUNICATION IS PRESENTED SOLELY THROUGH ORAL, WRITTEN OR VISUAL MEANS, THE WARNING SHALL BE MADE THROUGH THE SAME MEANS.

3. THE WARNING REQUIRED BY THIS SECTION SHALL NOT APPLY TO AN ELECTRONIC FUNDS TRANSFER IN WHICH FUNDS ARE NOT TRANSFERRED DIRECTLY TO ANOTHER PERSON AND ARE NOT AVAILABLE FOR IMMEDIATE USE, NOR SHALL ANY WARNING BE REQUIRED IN AN ELECTRONIC FUNDS TRANSFER MADE WITH A GIFT CERTIFICATE AS DEFINED IN SECTION THREE HUNDRED NINETY-SIX-I OF THE GENERAL BUSINESS LAW.

4. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT VIOLATION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.