

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

4612--A

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sens. GRIFFO, AVELLA -- 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

AN ACT to amend the banking law, in relation to the exercise of federally permitted powers by a state chartered banking institution

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

1 Section 1. Subdivision 3 of section 12-a of the banking law, as
2 amended by section 88 of part A of chapter 62 of the laws of 2011, is
3 amended to read as follows:
4 3. Except with respect to a federally permitted power approved pursu-
5 ant to subdivision four of this section, prior to any state chartered
6 banking institution initially exercising any federally permitted power
7 pursuant to this section, such banking institution shall make an appli-
8 cation individually or with one or more state chartered banking insti-
9 tutions to the superintendent indicating that such institution or insti-
10 tutions intend to exercise such federally permitted power and the basis
11 on which such institution or institutions believe such power is a feder-
12 ally permitted power. THE SUPERINTENDENT SHALL HAVE ONE HUNDRED TWENTY
13 DAYS FROM RECEIPT OF THE APPLICATION TO DETERMINE WHETHER IT MEETS THE
14 REQUIREMENTS OF THIS SECTION, PROVIDED THAT SUCH PERIOD MAY BE EXTENDED
15 FOR AN ADDITIONAL PERIOD OF TIME WITH THE WRITTEN CONSENT OF THE APPLI-
16 CANT OR APPLICANTS. If such application meets the requirements of this
17 section, the superintendent shall post such application upon the bulle-
18 tin board of the department pursuant to section forty-two of this arti-
19 cle. [After promptly reviewing such application, the] IF SUCH APPLICA-
20 TION DOES NOT MEET THE REQUIREMENTS OF THIS SECTION, THE SUPERINTENDENT
21 SHALL, WITHIN TEN DAYS OF SUCH DETERMINATION, NOTIFY THE APPLICANT OR
22 APPLICANTS OF THE REASONS WHY THE APPLICATION FAILS TO MEET THE REQUIRE-
23 MENTS. THE superintendent shall determine, consistent with the standards

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

LBD10810-02-1

1 set forth in subdivision five of this section, whether to approve such
2 application subject to such terms and conditions as the superintendent
3 may deem appropriate, in the superintendent's sole discretion. Such
4 determination, shall be made by the superintendent within forty-five
5 days after the posting of such application [by the superintendent],
6 provided however that the superintendent may notify the applicant or
7 applicants that the review of the application shall be extended for an
8 additional period of time not exceeding [one hundred twenty] SIXTY days
9 after the posting of such application, and provided further that such
10 period of time may be extended for an additional period of time with the
11 written consent of the applicant or applicants. The superintendent shall
12 not act upon the application prior to thirty days after such application
13 has been posted. [If the superintendent shall determine not to approve
14 of such application, the superintendent shall notify the applicant or
15 applicants in writing that the applicant or applicants may not exercise
16 such federally permitted power.] If the superintendent approves such
17 application, the superintendent shall, WITHIN TEN DAYS OF APPROVING THE
18 APPLICATION, notify the applicant or applicants in writing thereof, and
19 the applicant or applicants may exercise such federally permitted power
20 subject to such terms and conditions as the superintendent may have
21 approved. IF THE SUPERINTENDENT DECLINES SUCH APPLICATION, THE SUPER-
22 INTENDENT SHALL, WITHIN TEN DAYS OF MAKING SUCH DETERMINATION, NOTIFY
23 THE APPLICANT OR APPLICANTS IN WRITING THEREOF. AN APPLICANT OR APPLI-
24 CANTS MAY, UPON THE SUPERINTENDENT'S FAILURE TO COMPLY WITH THIS
25 SECTION, PETITION THE SUPERINTENDENT TO ACT UPON THE APPLICATION. THE
26 FAILURE OF THE SUPERINTENDENT TO ACT UPON THE APPLICATION OR NOTIFY THE
27 APPLICANT OR APPLICANTS, IN WRITING, AS TO THE REASONS WHY ACTION CANNOT
28 BE TAKEN WITHIN THIRTY DAYS OF RECEIPT OF SUCH PETITION SHALL BE DEEMED
29 A DENIAL OF THE APPLICATION, WHICH SHALL BE SUBJECT TO JUDICIAL REVIEW.
30 Notwithstanding any other law, the superintendent may make the approval
31 of an application under this section applicable to one or more addi-
32 tional state chartered banking institutions that are qualified to exer-
33 cise the same federally permitted powers as the applicant or applicants
34 pursuant to subdivision two of this section, subject to such terms and
35 conditions as the superintendent shall find necessary and appropriate.

36 S 2. This act shall take effect immediately, provided, however, that
37 the amendments to subdivision 3 of section 12-a of the banking law made
38 by section one of this act shall not affect the repeal of such section
39 and shall be deemed repealed therewith.