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

5488

2011-2012 Regular Sessions

I N S E N A T E

May 25, 2011

Introduced by Sen. MARCELLINO -- (at request of the Banking Department) -- 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 ATM safety

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

Section 1. Subdivision 1 of section 75-g of the banking law, as added by chapter 9 of the laws of 1996 and as designated by section 4-a of part A of chapter 57 of the laws of 1998, is amended and a new subdivision 1-a is added to read as follows:

1. [Within one year after the effective date of this article, and each year thereafter] BY THE FIFTEENTH DAY OF JANUARY, APRIL, JULY AND OCTOBER EACH YEAR (OR THE FOLLOWING BUSINESS DAY IF SUCH DAY IS NOT A BUSINESS DAY), every banking institution which [has] HAD an automated teller machine facility which [is] WAS in operation on [such date and such date every year thereafter] THE FIFTEENTH DAY OF THE PRECEDING MONTH shall submit a written COMPLIANCE report to the department on a form prescribed by the superintendent, certifying that such automated teller machine facility is in compliance with the provisions of this article or any variance or exemption that has been granted, or if such facility is not in compliance with such provisions, [such report shall state] STATING the manner in which such facility fails to meet such requirements[, the reasons for such non-compliance and a plan to remedy any such non-compliance]. NOTWITHSTANDING ARTICLE THREE OF THE STATE TECHNOLOGY LAW OR ANY OTHER LAW TO THE CONTRARY, SUCH REPORTS AND ANY OTHER REPORTS REQUIRED BY THIS SECTION SHALL BE MADE BY ELECTRONIC MEANS, UNLESS THE SUPERINTENDENT, IN HIS OR HER SOLE DISCRETION, GRANTS A WAIVER OF SUCH ELECTRONIC FILING REQUIREMENT, UPON GOOD CAUSE SHOWN.

1-A. IF ANY QUARTERLY COMPLIANCE REPORT REQUIRED BY SUBDIVISION ONE OF THIS SECTION INDICATES ANY FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE, SUCH BANKING INSTITUTION SHALL SUBMIT A WRITTEN REPORT TO THE

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

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DEPARTMENT, ON A FORM PRESCRIBED BY THE SUPERINTENDENT, NO LATER THAN THE ELEVENTH BUSINESS DAY FOLLOWING SUCH QUARTERLY COMPLIANCE REPORT, INDICATING WHETHER EACH SUCH FAILURE HAS BEEN CORRECTED AND, FOR ANY FAILURE THAT HAS NOT BEEN CORRECTED, THE REASON FOR SUCH FAILURE AND THE EXPECTED CORRECTION DATE. IF ANY SUCH FAILURE SHALL NOT HAVE BEEN CORRECTED WITHIN TEN BUSINESS DAYS OF THE FILING DATE OF THE APPLICABLE QUARTERLY COMPLIANCE REPORT, SUCH BANKING INSTITUTION SHALL, PROMPTLY AFTER CORRECTING SUCH FAILURE, SUBMIT A WRITTEN REPORT TO THE DEPARTMENT WITH THE DATE OR DATES OF EACH SUCH CORRECTION.

S 2. Subdivision 1 of section 75-j of the banking law, as amended by section 11 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

1. Any banking institution THAT REPORTS A VIOLATION OF ANY PROVISION OF SECTION SEVENTY-FIVE-C OF THIS ARTICLE IN A QUARTERLY COMPLIANCE REPORT UNDER SECTION SEVENTY-FIVE-G OF THIS ARTICLE OR IS OTHERWISE found BY THE DEPARTMENT to be in violation of any provision of section seventy-five-c of this article shall correct the violation within ten business days after such REPORT OR finding. Where a banking institution fails to correct [said violation within such period of time] ANY VIOLATION OF A PROVISION OF SECTION SEVENTY-FIVE-C OF THIS ARTICLE WITHIN TEN BUSINESS DAYS AFTER THE FILING OF SUCH REPORT OR A FINDING OF VIOLATION BY THE DEPARTMENT, the superintendent may, in a proceeding after notice and a hearing, require [any] SUCH banking institution to pay a civil penalty in an amount as determined pursuant to section forty-four of this chapter, provided, however, that the aggregate penalty for all offenses with respect to any one automated teller machine facility in any one proceeding shall not exceed an amount as determined pursuant to section forty-four of this chapter. For the purposes of this article, each violation of section seventy-five-c of this article shall be considered a separate and distinct violation.

S 3. This act shall take effect on the first of March next succeeding the date on which it shall have become a law or such later date as the superintendent of banks may determine is necessary for the banking department to develop a system for the automated reporting of compliance with the requirements of article 2-AA of the banking law; provided that the superintendent of banks shall notify the legislative bill drafting commission upon the development of such system of automated reporting in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.