

6952--A

Cal. No. 899

I N S E N A T E

April 16, 2012

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the banking law, in relation to electronic preservation of banking records

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

- 1 Section 1. The banking law is amended by adding a new section 36-b to
2 read as follows:
3 S 36-B. PRESERVATION OF BOOKS AND RECORDS. WHEN ANY PROVISION OF THIS
4 CHAPTER OR ANY RULE OR REGULATION ADOPTED PURSUANT THERETO REQUIRES THAT
5 BOOKS AND RECORDS BE PRESERVED, SUCH REQUIREMENT MAY BE SATISFIED BY
6 MAINTENANCE OF ORIGINAL PAPERS OR OTHER RECORDS, PHOTOGRAPHIC REPROD-
7 UCTIONS, OR RECORDS STORED IN ELECTRONIC STORAGE MEDIA. AS USED IN THIS
8 CHAPTER, "ELECTRONIC STORAGE MEDIA" MEANS ANY DIGITAL STORAGE MEDIUM OR
9 SYSTEM THAT MEETS THE FOLLOWING CONDITIONS:
10 1. IT MUST PRESERVE THE RECORDS EXCLUSIVELY IN NON-REWRITABLE, NON-ER-
11 ASABLE FORMAT;
12 2. IT MUST VERIFY AUTOMATICALLY THE QUALITY AND ACCURACY OF THE STOR-
13 AGE MEDIA RECORDING PROCESS;
14 3. IT MUST HAVE THE CAPACITY TO READILY DOWNLOAD INDEXES AND RECORDS
15 PRESERVED ON THE ELECTRONIC STORAGE MEDIA TO ANY MEDIUM ACCEPTABLE TO
16 THE SUPERINTENDENT; AND
17 4. IT MUST BE IMMEDIATELY READABLE ON EQUIPMENT AT ALL TIMES AVAILABLE
18 TO THE SUPERINTENDENT FOR EXAMINATION OF SUCH RECORDS.
19 S 2. Subdivision 1 of section 75-g of the banking law, as added by
20 chapter 9 of the laws of 1996 and as designated by section 4-a of part A
21 of chapter 57 of the laws of 1998, is amended to read as follows:
22 1. Within one year after the effective date of this article, and each
23 year thereafter, every banking institution which has an automated teller
24 machine facility which is in operation on such date and such date every
25 year thereafter shall submit a written report to the department on a

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

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1 form prescribed by the superintendent, certifying that such automated
2 teller machine facility is in compliance with the provisions of this
3 article or any variance or exemption that has been granted, or if such
4 facility is not in compliance with such provisions, such report shall
5 state the manner in which such facility fails to meet such requirements,
6 the reasons for such non-compliance and a plan to remedy any such non-
7 compliance. NOTWITHSTANDING ARTICLE THREE OF THE STATE TECHNOLOGY LAW
8 OR ANY OTHER LAW TO THE CONTRARY, THE SUPERINTENDENT MAY REQUIRE THAT
9 ANY REPORTS REQUIRED BY THIS SUBDIVISION BE MADE BY ELECTRONIC MEANS IF
10 HE OR SHE DEEMS IT NECESSARY TO ENSURE THE EFFICIENT AND EFFECTIVE
11 ADMINISTRATION OF THIS ARTICLE.

12 S 3. Section 576 of the banking law is amended by adding a new subdi-
13 vision 4 to read as follows:

14 4. IN ADDITION TO MAILING, NOTICES REQUIRED UNDER THIS SECTION MAY BE
15 DELIVERED BY OTHER MEANS, INCLUDING ELECTRONIC MEANS, PROVIDED THAT ANY
16 SUCH DELIVERY EVIDENCES RECEIPT OF THE NOTICE BY THE ADDRESSEE. SUCH
17 RECEIPT MAY BE CREATED AND MAINTAINED IN ELECTRONIC FORM.

18 S 4. This act shall take effect on the ninetieth day after it shall
19 have become a law.