

156--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. NOLAN, JACOBS, JAFFEE, MILLER, DINOWITZ, MILLMAN, WEPRIN, O'DONNELL -- Multi-Sponsored by -- M. of A. COOK, CRESPO, GABRYSZAK, GLICK, ORTIZ, PERRY -- read once and referred 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 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:

1 Section 1. The banking law is amended by adding a new section 652-c to
2 read as follows:
3 S 652-C. REQUIRED WARNING. 1. A PERSON ENGAGED IN THE BUSINESS OF
4 RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING MONEY BY WIRE OR ELEC-
5 TRONIC TRANSFER WHICH, AT THE REQUEST OF AN INDIVIDUAL WHO IN PERSON, BY
6 TELEPHONE OR ELECTRONIC MEANS TRANSMITS FUNDS TO ANOTHER PERSON, BUSI-
7 NESS OR ENTITY, SHALL CLEARLY AND PROMINENTLY WARN THE PERSON REQUESTING
8 THE TRANSMISSION PRIOR TO COMPLETING SUCH TRANSMISSION OF FUNDS. SUCH
9 WARNING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:
10 (A) A TITLE IN BOLD, CAPITAL LETTERS SAYING "WARNING: DO NOT FALL
11 VICTIM TO CONSUMER FRAUD;"
12 (B) QUESTIONS OR INFORMATION THAT ALERT A CONSUMER ABOUT THE DANGERS
13 OF SENDING FUNDS FOR LOTTERY WINNINGS, CREDIT CARD GUARANTEES OR LOANS,
14 INTERNET OR PHONE OFFERS, TO PERSONS UNKNOWN TO THE CONSUMER OR PERSONS
15 WHOSE IDENTITY THE CONSUMER CANNOT VERIFY AND ANY OTHER FRAUD ALERT; AND
16 (C) INFORMATION ABOUT HOW TO ASK QUESTIONS OF THE SALES CLERK OR
17 REPRESENTATIVE; AND
18 (D) INFORMATION ABOUT HOW TO STOP A TRANSFER.
19 2. FOR THE PURPOSES OF THIS SECTION, "CLEARLY AND PROMINENTLY" MEANS:
20 (A) IN WRITTEN COMMUNICATIONS, INCLUDING PRINT AND THOSE MADE THROUGH AN
21 ELECTRONIC MEDIUM (SUCH AS VIDEO AND INTERACTIVE MEDIA INCLUDING, BUT

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

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1 NOT LIMITED TO, THE INTERNET, ONLINE SERVICES, AND ELECTRONIC MAIL) THE
2 WARNING SHALL APPEAR ON THE SAME FORM AS THE FORM USED TO AUTHORIZE THE
3 TRANSMISSION OF FUNDS, SHALL BE IN A TYPE SIZE SUFFICIENTLY NOTICEABLE
4 FOR AN ORDINARY CONSUMER TO READ AND COMPREHEND THE WRITTEN WARNING AND
5 SHALL BE IN A TYPE THAT CONTRASTS WITH THE BACKGROUND AGAINST WHICH THE
6 WRITTEN WARNING APPEARS; AND (B) IN ORAL COMMUNICATIONS, THE WARNING
7 SHALL BE DELIVERED IN A VOLUME AND CADENCE SUFFICIENT FOR AN ORDINARY
8 CONSUMER TO HEAR AND COMPREHEND. IF ANY COMMUNICATION IS PRESENTED SOLE-
9 LY THROUGH ORAL, WRITTEN OR VISUAL MEANS, THE WARNING SHALL BE MADE
10 THROUGH THE SAME MEANS.

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

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

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