

9037--A

Cal. No. 513

I N   A S S E M B L Y

March 10, 2014

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Introduced by M. of A. ROBINSON, RAIA, WEPRIN, MOSLEY, MAGEE, PERRY, FAHY, RODRIGUEZ, MILLER, PEOPLES-STOKES, CAMARA, OTIS, GOTTFRIED, ROZIC -- Multi-Sponsored by -- M. of A. ABBATE, GALEF, KELLNER, ROSA, RYAN -- read once and referred to the Committee on Banks -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the banking law, in relation to authorizing financial institutions to conduct savings promotion prize giveaways

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 9-v to  
2 read as follows:

3     S 9-V. SAVINGS PROMOTION PRIZE GIVEAWAY. A BANKING ORGANIZATION  
4 ORGANIZED UNDER OR SUBJECT TO THE PROVISIONS OF THIS CHAPTER, FEDERAL  
5 CREDIT UNION, FEDERAL SAVINGS BANK, FEDERAL SAVINGS AND LOAN ASSOCI-  
6 ATION, OR NATIONAL BANK ASSOCIATION MAY CONDUCT A SAVINGS PROMOTION IN  
7 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, TO THE EXTENT IT IS NOT  
8 PROHIBITED BY FEDERAL LAW OR REGULATION.

9     1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE  
10 THE FOLLOWING MEANINGS:

11     A. THE TERM "SAVINGS PROMOTION" MEANS A CONTEST OR PROMOTION SPONSORED  
12 BY A BANKING ORGANIZATION, FEDERAL CREDIT UNION, FEDERAL SAVINGS BANK,  
13 FEDERAL SAVINGS AND LOAN ASSOCIATION, OR NATIONAL BANK ASSOCIATION IN  
14 WHICH A CHANCE OF WINNING DESIGNATED PRIZES IS OBTAINED BY ITS DEPOS-  
15 ITORS FOR THE PURPOSES OF ENCOURAGING DEPOSITORS TO BUILD AND MAINTAIN  
16 SAVINGS DEPOSITS.

17     B. THE TERM "QUALIFYING ACCOUNT" MEANS A SAVINGS ACCOUNT, SHARE  
18 ACCOUNT, SHARE CERTIFICATE, OR OTHER SAVINGS PRODUCT OR PROGRAM OFFERED  
19 BY A BANKING ORGANIZATION, FEDERAL CREDIT UNION, FEDERAL SAVINGS BANK,  
20 FEDERAL SAVINGS AND LOAN ASSOCIATION, OR NATIONAL BANK ASSOCIATION  
21 THROUGH WHICH DEPOSITORS MAY OBTAIN CHANCES TO WIN PRIZES IN A SAVINGS  
22 PROMOTION.

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

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1 C. THE TERM "NON-QUALIFYING ACCOUNT" MEANS A SAVINGS ACCOUNT, SHARE  
2 ACCOUNT, CERTIFICATE OF DEPOSIT, OR OTHER SAVINGS PRODUCT OR PROGRAM  
3 OFFERED BY A BANKING ORGANIZATION, FEDERAL CREDIT UNION, FEDERAL SAVINGS  
4 BANK, FEDERAL SAVINGS AND LOAN ASSOCIATION, OR NATIONAL BANK ASSOCIATION  
5 THAT IS NOT A QUALIFYING ACCOUNT.

6 2. RULES OF OPERATION. A. PARTICIPANTS IN A SAVINGS PROMOTION SHALL  
7 NOT BE REQUIRED TO PROVIDE ANY CONSIDERATION IN ORDER TO OBTAIN ENTRIES  
8 TO WIN. FOR PURPOSES OF THIS PARAGRAPH, PARTICIPANTS SHALL NOT BE DEEMED  
9 TO HAVE PROVIDED CONSIDERATION DUE TO THE REQUIREMENT THAT THEY DEPOSIT  
10 MONEY IN A QUALIFYING ACCOUNT TO OBTAIN ENTRIES TO WIN, SO LONG AS: (I)  
11 THE INTEREST RATE ASSOCIATED WITH ANY SUCH QUALIFYING ACCOUNT IS NOT  
12 REDUCED WHEN COMPARED WITH OTHER COMPARABLE NON-QUALIFYING ACCOUNTS  
13 OFFERED BY ANY BANKING ORGANIZATION, FEDERAL CREDIT UNION, FEDERAL  
14 SAVINGS BANK, FEDERAL SAVINGS AND LOAN ASSOCIATION OR NATIONAL BANK  
15 ASSOCIATION, TO ACCOUNT FOR THE POSSIBILITY OF DEPOSITORS WINNING SPECI-  
16 FIED PRIZES; AND (II) NO BANKING ORGANIZATION, FEDERAL CREDIT UNION,  
17 FEDERAL SAVINGS BANK, FEDERAL SAVINGS AND LOAN ASSOCIATION, OR NATIONAL  
18 BANK ASSOCIATION MAY CHARGE A FEE FOR ENTRY. ALL FEES CHARGED IN  
19 CONNECTION WITH SUCH QUALIFYING ACCOUNT SHALL BE COMPARABLE WITH ALL  
20 FEES CHARGED IN CONNECTION WITH OTHER COMPARABLE NON-QUALIFYING  
21 ACCOUNTS, IF ANY, OFFERED BY ANY BANKING ORGANIZATION, FEDERAL CREDIT  
22 UNION, FEDERAL SAVINGS BANK, FEDERAL SAVINGS AND LOAN ASSOCIATION, OR  
23 NATIONAL BANK ASSOCIATION.

24 B. A SAVINGS PROMOTION SHALL BE CONDUCTED SUCH THAT EACH ENTRY IN THE  
25 SAVINGS PROMOTION HAS AN EQUAL CHANCE OF BEING DRAWN.

26 C. PARTICIPANTS IN A SAVINGS PROMOTION SHALL NOT BE REQUIRED TO BE  
27 PRESENT AT A PRIZE DRAWING IN ORDER TO WIN.

28 D. THE OFFERING OF A SAVINGS PROMOTION SHALL BE SUBJECT TO SECTION  
29 THREE HUNDRED SIXTY-NINE-E OF THE GENERAL BUSINESS LAW IN THE SAME  
30 MANNER AS OTHER PROMOTIONS REGULATED THEREUNDER. FOR PURPOSES OF THE  
31 GENERAL BUSINESS LAW AND THE PENAL LAW, A SAVINGS PROMOTION OFFERED IN  
32 ACCORDANCE WITH THIS CHAPTER SHALL NOT BE DEEMED TO ENTAIL CONSIDERATION  
33 OR THE PROMOTION OF GAMBLING OR A LOTTERY.

34 S 2. Section 96 of the banking law is amended by adding a new subdivi-  
35 sion 15 to read as follows:

36 15. TO ENGAGE IN A "SAVINGS PROMOTION" IN ACCORDANCE WITH SECTION  
37 NINE-V OF THIS CHAPTER AND SUBJECT TO ANY REGULATIONS PROMULGATED BY THE  
38 SUPERINTENDENT. THE SUPERINTENDENT SHALL CONSULT WITH THE STATE GAMING  
39 COMMISSION BEFORE PROPOSING ANY SUCH REGULATIONS OR ANY AMENDMENTS THER-  
40 ETO. SUCH REGULATIONS SHALL ENSURE THAT:

41 A. NO PARTICIPANT IN A SAVINGS PROMOTION IS CHARGED ANY FEE THAT WOULD  
42 CONSTITUTE, DIRECTLY OR INDIRECTLY, CONSIDERATION FOR PARTICIPATION IN  
43 SUCH SAVINGS PROMOTION; AND

44 B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDI-  
45 RECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTICI-  
46 PATION IN SUCH SAVINGS PROMOTION.

47 S 3. Section 234 of the banking law is amended by adding a new subdi-  
48 vision 26 to read as follows:

49 26. TO ENGAGE IN A "SAVINGS PROMOTION" IN ACCORDANCE WITH SECTION  
50 NINE-V OF THIS CHAPTER AND SUBJECT TO ANY REGULATIONS PROMULGATED BY THE  
51 SUPERINTENDENT. THE SUPERINTENDENT SHALL CONSULT WITH THE STATE GAMING  
52 COMMISSION BEFORE PROPOSING ANY SUCH REGULATIONS OR ANY AMENDMENTS THER-  
53 ETO. SUCH REGULATIONS SHALL ENSURE THAT:

54 A. NO PARTICIPANT IN A SAVINGS PROMOTION IS CHARGED ANY FEE THAT WOULD  
55 CONSTITUTE, DIRECTLY OR INDIRECTLY, CONSIDERATION FOR PARTICIPATION IN  
56 SUCH SAVINGS PROMOTION; AND

1 B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDI-  
2 RECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTIC-  
3 IPATION IN SUCH SAVINGS PROMOTION.

4 S 4. Section 383 of the banking law is amended by adding a new subdi-  
5 vision 17 to read as follows:

6 17. TO ENGAGE IN A "SAVINGS PROMOTION" IN ACCORDANCE WITH SECTION  
7 NINE-V OF THIS CHAPTER AND SUBJECT TO ANY REGULATIONS PROMULGATED BY THE  
8 SUPERINTENDENT. THE SUPERINTENDENT SHALL CONSULT WITH THE STATE GAMING  
9 COMMISSION BEFORE PROPOSING ANY SUCH REGULATIONS OR ANY AMENDMENTS THER-  
10 ETO. SUCH REGULATIONS SHALL ENSURE THAT:

11 A. NO PARTICIPANT IN A SAVINGS PROMOTION IS CHARGED ANY FEE THAT WOULD  
12 CONSTITUTE, DIRECTLY OR INDIRECTLY, CONSIDERATION FOR PARTICIPATION IN  
13 SUCH SAVINGS PROMOTION; AND

14 B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDI-  
15 RECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTIC-  
16 IPATION IN SUCH SAVINGS PROMOTION.

17 S 5. Section 454 of the banking law is amended by adding a new subdi-  
18 vision 37 to read as follows:

19 37. TO ENGAGE IN A "SAVINGS PROMOTION" IN ACCORDANCE WITH SECTION  
20 NINE-V OF THIS CHAPTER AND SUBJECT TO ANY REGULATIONS PROMULGATED BY THE  
21 SUPERINTENDENT. THE SUPERINTENDENT SHALL CONSULT WITH THE STATE GAMING  
22 COMMISSION BEFORE PROPOSING ANY SUCH REGULATIONS OR ANY AMENDMENTS THER-  
23 ETO. SUCH REGULATIONS SHALL ENSURE THAT:

24 A. NO PARTICIPANT IN A SAVINGS PROMOTION IS CHARGED ANY FEE THAT WOULD  
25 CONSTITUTE, DIRECTLY OR INDIRECTLY, CONSIDERATION FOR PARTICIPATION IN  
26 SUCH SAVINGS PROMOTION; AND

27 B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDI-  
28 RECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTIC-  
29 IPATION IN SUCH SAVINGS PROMOTION.

30 S 6. This act shall take effect one year after it shall have become a  
31 law.