

9851

I N A S S E M B L Y

May 27, 2014

Introduced by M. of A. ROSA -- read once and referred to the Committee
on Banks

AN ACT to amend the banking law, in relation to making certain technical
corrections thereto

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

1 Section 1. Section 6-i of the banking law, as added by chapter 571 of
2 the laws of 1986 and as further amended by section 104 of part A of
3 chapter 62 of the laws of 2011, is amended to read as follows:
4 S 6-i. Mortgage loans. No person, partnership, corporation, banking
5 organization, exempt organization as defined in section five hundred
6 ninety of this chapter or other entity shall make a mortgage loan as
7 defined in section five hundred ninety of this chapter except in
8 conformity with the requirements of article twelve-D and in compliance
9 with such rules and regulations as may be promulgated by the superinten-
10 dent of financial services [or prescribed by the superintendent] under
11 this section. Nothing in this section shall be construed to limit or
12 otherwise modify any otherwise applicable requirement of state or feder-
13 al law.
14 S 2. Subdivision 3 of section 7 of the banking law, as added by chap-
15 ter 184 of the laws of 1978 and as further amended by section 104 of
16 part A of chapter 62 of the laws of 2011, is amended to read as follows:
17 3. The superintendent of financial services may promulgate such regu-
18 lations as [it] HE OR SHE deems necessary and proper to implement and
19 define the provisions of this section.
20 S 3. Subdivision 3 of section 9-f of the banking law, as amended by
21 chapter 571 of the laws of 1986 and as further amended by section 104 of
22 part A of chapter 62 of the laws of 2011, is amended to read as follows:
23 3. For the purposes of this section, the term (a) "prudent loan" means
24 a loan upon the security of real property which is prudent by acceptable
25 banking standards and is in compliance with all of the provisions of
26 this chapter[,] AND RULES AND regulations of the superintendent of
27 financial services [and rules of the superintendent]; and (b) notwith-
28 standing any other provision of this chapter or law to the contrary, the

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

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1 term banking institution when used in this section shall mean and
2 include all banks, trust companies, savings banks, savings and loan
3 associations, credit unions, mortgage bankers, exempt organizations as
4 defined in article twelve-D of this chapter and foreign banking corpo-
5 rations whether incorporated, chartered, organized or licensed under the
6 laws of this state or any other state or the United States.

7 S 4. Subdivision 2 of section 14-c of the banking law, as added by
8 chapter 19 of the laws of 1978 and as further amended by section 104 of
9 part A of chapter 62 of the laws of 2011, is amended to read as follows:

10 2. The superintendent of financial services may alter or amend rules
11 and regulations or promulgate additional rules and regulations as [it]
12 HE OR SHE deems necessary and proper to effectuate the provisions of
13 subdivision one.

14 S 5. Subdivision 10 of section 100-c of the banking law, as added by
15 chapter 239 of the laws of 1986 and as further amended by section 104 of
16 part A of chapter 62 of the laws of 2011, is amended to read as follows:

17 10. The superintendent of financial services shall promulgate such
18 regulations and rules as [it] HE OR SHE considers appropriate to govern
19 the administration of common trust funds and short term investment
20 common trust funds.

21 S 6. Subdivision 4 of section 103 of the banking law, as amended by
22 chapter 313 of the laws of 2001, the opening paragraph and the fifth
23 undesignated paragraph as further amended by section 104 of part A of
24 chapter 62 of the laws of 2011, is amended to read as follows:

25 4. Make a loan upon the security of real estate within or without this
26 state which does not comply with any such rules or regulations as the
27 superintendent of financial services may prescribe.

28 No loan shall be made under the provisions of this subdivision except
29 upon the written and signed certificate of an appraiser appointed pursu-
30 ant to policies established by the board of directors, certifying to the
31 value of the premises according to his judgment.

32 The provisions of this subdivision shall not constitute the authority
33 to make a loan to a natural person upon the security of a mortgage which
34 is not a first lien.

35 Where the collateral for any loan consists partly of real estate secu-
36 rity and partly of other security, including a guarantee or endorsement
37 by or an obligation or commitment of a person other than the borrower,
38 only the amount by which the loan exceeds the value as collateral of
39 such other security, as found in good faith by a duly authorized officer
40 of such bank or trust company, at the time of the making of the loan or
41 commitment therefor, shall be considered a loan upon the security of
42 real estate, provided, that in no event shall a loan be considered a
43 loan upon the security of real estate (i) where the principal amount of
44 any real estate security taken therefor is less than fifteen per centum
45 of the amount of such loan or (ii) where the loan is payable in monthly
46 or quarterly installments over a period not to exceed one hundred twen-
47 ty-one months and does not exceed twenty thousand dollars and is for the
48 purpose of paying the cost of any repairs, alterations or improvements
49 upon, or in connection with, or, as the superintendent may authorize,
50 the equipping of existing structures or the building of new structures
51 by the owners thereof or by the lessees under a lease expiring not less
52 than six months after the maturity of the loan or (iii) where the loan
53 is fully guaranteed or insured by the United States or a state, or any
54 department, agency or instrumentality thereof, and for the payment of
55 which loan the full faith and credit of the United States or of such
56 state is pledged and if under the terms of the guaranty or insurance

1 agreement the bank or trust company will be assured of repayment in
2 accordance with the terms of the loan or (iv) where there is a binding
3 and valid commitment or agreement by a financially responsible lender,
4 purchaser or other financially responsible party either directly with
5 the lending bank or trust company or which is for the benefit of, or has
6 been assigned to, the lending bank or trust company and pursuant to
7 which commitment, agreement or assignment, the lender, purchaser or
8 other party is required to advance to the lending bank or trust company
9 within thirty months from the date of such commitment or agreement the
10 full amount of the loan to be made by the lending bank or trust company
11 upon the security of real estate improved by a building or buildings, or
12 to be improved by a building or buildings in the process of
13 construction, the major portion of which building is used, or in the
14 case of a building under construction is to be used, for residential,
15 business, manufacturing or agricultural purposes, and where pursuant to
16 the terms and provisions of such commitment or agreement such advance
17 shall be made prior to or upon the maturity of the loan by the lending
18 bank or trust company.

19 Real estate security for purposes of this section shall not include
20 (a) an assignment of rents under a lease, (b) a mortgage or other lien
21 upon a leasehold, (c) a mortgage or other lien upon leasehold, royalty
22 or other rights in oil, gas, minerals, standing timber, or other
23 products of land, (d) a mortgage or other lien made or given upon real
24 estate and taken as collateral security for loans to a borrower,
25 provided, that at the time of the making of the loan or commitment
26 therefor, repayment thereof is reasonably expected to be made out of the
27 operations of such borrower or of the mortgagor, or (e) such mortgages
28 or other liens on property as may be specifically exempted from the
29 limitations and restrictions of this subdivision by the superintendent
30 of financial services by general or specific regulations [adopted by a
31 three-fifths vote of all its members]. Nothing in this paragraph shall
32 be construed to imply that security of a kind not mentioned herein is to
33 be deemed real estate security.

34 The limitations and restrictions contained in this subdivision shall
35 not prevent the acceptance of any real estate security to secure the
36 payment of a debt previously contracted in good faith. Every mortgage
37 and every assignment of a mortgage taken or held by such bank or trust
38 company shall immediately be recorded or registered in its name in the
39 office of the clerk or the proper recording officer of the county in
40 which the real estate described in the mortgage is located, except that
41 where the underlying real estate is located outside the state of New
42 York such mortgage or assignment may be recorded or registered in the
43 name of a duly authorized nominee, and except that if such mortgage or
44 assignment of mortgage or of an interest therein shall be taken from a
45 corporation organized under the banking law or all of the capital stock
46 of which is owned by not less than twenty savings banks of this state,
47 the bank or trust company may hold such mortgage or assignment unre-
48 corded unless the superintendent shall direct the bank or trust company
49 to record the same. The recording or registering of assignments of mort-
50 gages shall not be required when not less than ten mortgages are
51 assigned as security for a loan, the term of which does not exceed
52 twelve months.

53 Any bank or trust company may renew from time to time any loan upon
54 the security of real estate lawfully made by it prior to June thirtieth,
55 nineteen hundred thirty-seven.

1 None of the prohibitions and restrictions contained in this subdivi-
2 sion shall apply to any corporation all of the capital stock of which is
3 owned by not less than twenty savings banks of this state.

4 S 7. Paragraph (d) of subdivision 8 of section 108 of the banking law,
5 as added by chapter 344 of the laws of 1974, such subdivision as renum-
6 bered by chapter 512 of the laws of 1977, and as further amended by
7 section 104 of part A of chapter 62 of the laws of 2011, is amended to
8 read as follows:

9 (d) The superintendent of financial services may promulgate such regu-
10 lations as [it] HE OR SHE deems necessary and proper to implement and
11 define the provisions of this subdivision. The superintendent of finan-
12 cial services may prescribe maximum charges from time to time, but not
13 more often than once in any six month period, and shall provide reason-
14 able notice to the public of any change in such maximum charges, of the
15 effective date of such change, which shall not be less than seven days
16 following the adoption of such change by the superintendent of financial
17 services, and of any rule or regulation adopted pursuant to this subdivi-
18 sion.

19 S 8. Section 111 of the banking law, as amended by chapter 360 of the
20 laws of 1984 and as further amended by section 104 of part A of chapter
21 62 of the laws of 2011, is amended to read as follows:

22 S 111. Profits; credits to surplus fund and to undivided profits. In
23 any case where the combined capital stock, surplus fund and undivided
24 profits of a bank or trust company do not equal ten per centum of its
25 net deposit liabilities, the superintendent of financial services may in
26 [its] HIS OR HER discretion require such bank or trust company at the
27 close of each accounting period to credit its surplus fund with a
28 portion of its net profits for such period, not to exceed ten per centum
29 thereof, until its combined capital stock, surplus fund and undivided
30 profits equal ten per centum of its net deposit liabilities. For the
31 purposes of this section, the term "net deposit liabilities" shall mean
32 total deposits including all amounts due to national banks, banks, bank-
33 ers, trust companies and savings banks, the amounts due on certified and
34 cashier's checks, and for unpaid dividends less the amounts of balances
35 due from national banks, banks, bankers, and trust companies and cash
36 items in process of collection payable immediately upon presentation in
37 the United States.

38 S 9. Paragraph (b) of subdivision 3 of section 130 of the banking
39 law, as amended by chapter 217 of the laws of 2010 and as further
40 amended by section 104 of part A of chapter 62 of the laws of 2011, is
41 amended to read as follows:

42 (b) The superintendent of financial services shall have the power to
43 determine by regulation who shall be considered, under the provisions of
44 this subdivision, to be an executive officer, and by a general or
45 specific regulation[, upon a three-fifths vote of all its members,] to
46 grant permission to an executive officer of a bank or trust company to
47 be an executive officer, director or trustee or both an executive offi-
48 cer and director or a trustee of another bank or trust company, savings
49 bank, or savings and loan association, national bank, federal savings
50 bank or federal savings association, the principal office of which is
51 located in this state, bank holding company, or foreign banking corpo-
52 ration maintaining a branch in this state. Such permission may be grant-
53 ed only if in the judgment of the superintendent of financial services
54 such service by the executive officer will be consistent with the policy
55 of the state of New York as declared in section ten of this chapter. The
56 superintendent of financial services shall have the power to revoke such

1 permission [by a like vote] whenever [it] HE OR SHE finds, after reason-
2 able notice and an opportunity to be heard, that the public interest
3 requires such revocation.

4 S 10. Subdivision 4 of section 234-b of the banking law, as added by
5 chapter 883 of the laws of 1980 and as further amended by section 104 of
6 part A of chapter 62 of the laws of 2011, is amended to read as follows:

7 4. The superintendent of financial services is authorized to promul-
8 gate such regulations as [it] HE OR SHE may deem necessary or proper to
9 implement the provisions of this section and the proper exercise of the
10 powers granted by this section.

11 S 11. Section 380-h of the banking law, as added by chapter 883 of
12 the laws of 1980, subdivisions 1 and 4 as further amended by section 104
13 of part A of chapter 62 of the laws of 2011, is amended to read as
14 follows:

15 S 380-h. Trust powers. 1. The superintendent of financial services is
16 authorized and empowered to grant permission to a savings and loan asso-
17 ciation to exercise any or all of the powers specified in sections one
18 hundred, one hundred-a, one hundred-b and one hundred-c of this chapter.
19 In passing upon applications for permission to exercise any such powers,
20 the superintendent of financial services may take into consideration the
21 amount of surplus of the applying association, whether or not such
22 surplus is sufficient under the circumstances of the case, the needs of
23 the community to be served and any other facts and circumstances that
24 seem [to it] proper, and may grant or refuse it permission accordingly.

25 2. Whenever the laws of this state require a trust company acting in a
26 fiduciary capacity to deposit securities with the state authorities for
27 the protection of private or court trusts, a savings and loan associ-
28 ation, so acting, is empowered to make similar deposits of securities.

29 4. The superintendent of financial services is authorized to promul-
30 gate such regulations as [it] HE OR SHE may deem necessary or proper to
31 implement the provisions of this section and the proper exercise of the
32 powers granted by this section.

33 S 12. Section 455 of the banking law, as added by chapter 608 of the
34 laws of 1996, subdivisions 1 and 3 as further amended by section 104 of
35 part A of chapter 62 of the laws of 2011, is amended to read as follows:

36 S 455. Trust powers. 1. The superintendent of financial services is
37 authorized and empowered to grant permission to a credit union to exer-
38 cise any or all of the powers specified in sections one hundred, one
39 hundred-a, one hundred-b and one hundred-c of this chapter. In passing
40 upon applications for permission to exercise any such powers, the super-
41 intendent of financial services may take into consideration the amount
42 of net worth of the applying credit union, whether or not such net worth
43 is sufficient under the circumstances of the case, the needs of the
44 community to be served and any other facts and circumstances that seem
45 [to it] proper, and may grant or refuse it permission accordingly.

46 2. Whenever the laws of this state require a trust company acting in a
47 fiduciary capacity to deposit securities with the state authorities for
48 the protection of private or court trusts, a credit union, so acting, is
49 required and empowered to make similar deposits of securities.

50 3. The superintendent of financial services is authorized to promul-
51 gate such regulations as [it] HE OR SHE may deem necessary or proper to
52 implement the provisions of this section and the proper exercise of the
53 powers granted by this section.

54 S 13. Paragraph (a) of subdivision 1 of section 595 of the banking
55 law, as amended by chapter 571 of the laws of 1986 and as further

1 amended by section 104 of part A of chapter 62 of the laws of 2011, is
2 amended to read as follows:

3 (a) Through a course of conduct, the licensee or registrant has
4 violated any provisions of this article, or any rule or regulation
5 promulgated by the superintendent of financial services[, or any rule or
6 regulation prescribed by the superintendent] under and within the
7 authority of this article or of any other law, rule or regulation of
8 this state or the federal government;

9 S 14. Subdivision 7 of section 600 of the banking law, as amended by
10 chapter 315 of the laws of 2008 and as further amended by section 104 of
11 part A of chapter 62 of the laws of 2011, is amended to read as follows:

12 (7) One or more subsidiaries or affiliates of a bank, trust company,
13 savings bank or savings and loan association, which are not a bank,
14 trust company, savings bank or savings and loan association, as those
15 terms are defined in section two of this chapter, with the bank, trust
16 company, savings bank or savings and loan association of which it is a
17 subsidiary or affiliate, as the superintendent of financial services
18 shall approve and enter on its records; provided, however, that nothing
19 in this subdivision shall be deemed to authorize a bank, trust company,
20 savings bank or savings and loan association to exercise any power or
21 engage in any activity that it may not exercise or engage in pursuant to
22 this chapter. The superintendent of financial services may promulgate
23 such regulations as [it] HE OR SHE deems necessary and proper to imple-
24 ment and define the provisions of this subdivision. Nothing in this
25 subdivision shall alter, affect or impair any regulation or resolution
26 adopted, or that may be adopted, by the superintendent of financial
27 services, pursuant to section twelve-a or former sections fourteen-g or
28 fourteen-h of this chapter.

29 S 15. This act shall take effect immediately.