

2932--A

Cal. No. 595

2013-2014 Regular Sessions

I N   S E N A T E

January 25, 2013

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Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- recommitted to the Committee on Banks in accordance with Senate Rule 6, sec. 8 -- 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 retail instalment contracts and transmitters of money

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

1     Section 1. Subdivisions 6-a and     6-b of section 491 of the banking  
2     law, subdivision 6-a as amended by chapter 289 of the laws of 1962 and  
3     subdivision 6-b as added by chapter 358 of the laws of 1958, are amended  
4     to read as follows:  
5     6-a. "Retail instalment obligation" or "obligation" means an agree-  
6     ment, entered into in this state, pursuant to which the buyer promises  
7     to pay, in instalments, the time sale price or prices of goods and/or  
8     services, or any part thereof. The term does not include [(a)] a retail  
9     instalment contract[, (b)] OR a retail instalment credit agreement [or  
10    (c) an obligation which is intended to be and is ultimately insured or  
11    guaranteed under title three of the act of Congress entitled "Service-  
12    men's Readjustment Act of 1944"]. THE TERM INCLUDES SUCH AN AGREEMENT  
13    WHEREVER ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF  
14    SOLICITED IN PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR  
15    HER OWN BEHALF OR THAT OF THE SELLER.  
16    6-b. "Retail instalment credit agreement" or "credit agreement" means  
17    an agreement entered into in this state, pursuant to which the buyer  
18    promises to pay, in instalments, his OR HER outstanding indebtedness  
19    from time to time to a retail seller, not evidenced by a retail instal-  
20    ment contract or obligation, for one or more items of goods or services,  
21    whenever purchased or obtained, which provides for a service charge and

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

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1 under which instalment payments apply to his OR HER outstanding indebt-  
2 edness from time to time. THE TERM INCLUDES SUCH AN AGREEMENT WHEREVER  
3 ENTERED INTO IF EXECUTED BY THE BUYER IN THIS STATE AND IF SOLICITED IN  
4 PERSON BY A SALESPERSON OR OTHER PERSON ACTING ON HIS OR HER OWN BEHALF  
5 OR THAT OF THE SELLER.

6 S 2. Subdivision 1 of section 641 of the banking law, as amended by  
7 chapter 677 of the laws of 2004, is amended to read as follows:

8 1. No person shall engage IN THIS STATE in the business of selling or  
9 issuing checks, or engage in the business of receiving money for trans-  
10 mission or transmitting the same, without a license therefor obtained  
11 from the superintendent as provided in this article, nor shall any  
12 person engage in such business as an agent, except as an agent of a  
13 licensee or as agent of a payee; provided, however, that nothing in this  
14 article shall apply to a bank, trust company, private banker, foreign  
15 banking corporation licensed pursuant to article two of this chapter or  
16 foreign banking company authorized to operate pursuant to the Interna-  
17 tional Banking Act of 1978 (12 USC 3101 et seq.), as amended, savings  
18 bank, savings and loan association, an investment company, a national  
19 banking association, federal reserve bank, corporation organized under  
20 the provisions of section twenty-five-a of an act of congress entitled  
21 the "Federal Reserve Act", federal savings bank, federal savings and  
22 loan association or state or federal credit union OR OUT-OF-STATE STATE  
23 BANK. A PERSON ENGAGES IN THIS STATE IN THE BUSINESS OF SELLING OR  
24 ISSUING CHECKS OR RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING THE  
25 SAME IF SUCH PERSON INDUCES ANOTHER PERSON WHO IS A RESIDENT OF, OR  
26 LOCATED IN, THIS STATE TO ENTER INTO A TRANSACTION BY SOLICITATION IN OR  
27 INTO THIS STATE BY ANY MEANS, INCLUDING BUT NOT LIMITED TO, MAIL, ELEC-  
28 TRONIC MAIL, TELEPHONE, RADIO, TELEVISION, THE INTERNET OR ANY OTHER  
29 ELECTRONIC MEANS.

30 S 3. This act shall take effect immediately.