

3999--A

2013-2014 Regular Sessions

I N S E N A T E

March 4, 2013

Introduced by Sens. FARLEY, DILAN, GRIFFO, KLEIN, VALESKY -- read twice and ordered printed, and when printed to be committed 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 enacting the "short-term financial services loan act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "short-term financial services loan act".
3 S 2. Subdivision 4 of section 18-a of the banking law, as amended by
4 chapter 155 of the laws of 2012, is amended to read as follows:
5 4. The fee which shall be imposed for any application for an initial
6 license, registration, incorporation or for the formation of any other
7 entity pursuant to this chapter, or for a merger, acquisition, purchase
8 or sale of assets, change of control, or for any other application
9 requiring the approval of the superintendent that may necessitate, as
10 determined by the superintendent, a determination regarding the charac-
11 ter or fitness and/or the safety and soundness of such applicant or a
12 similar investigative undertaking by the department, shall be:
13 (a) twelve thousand five hundred dollars when such application relates
14 to a banking organization, bank holding company or, except as provided
15 in paragraph (b) of this subdivision, a foreign banking corporation;
16 (b) seven thousand five hundred dollars when such application relates
17 to licensing a branch, agency or representative office of a foreign
18 banking corporation;
19 (c) one thousand five hundred dollars when the application relates to
20 a mortgage broker; [or]
21 (d) *THREE THOUSAND FIVE HUNDRED DOLLARS WHEN THE APPLICATION RELATES*
22 *TO LICENSING A CASHIER OF CHECKS WHEN THE APPLICANT INTENDS TO ENGAGE IN*
23 *SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTIONS. FIVE HUNDRED DOLLARS OF*

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

LBD04943-06-3

1 SUCH FEE SHALL BE RETAINED BY THE DEPARTMENT TO BE USED SOLELY FOR THE
2 PURPOSE OF OPERATING THE LOAN ELIGIBILITY REGISTRY ESTABLISHED PURSUANT
3 TO SECTION THREE HUNDRED SEVENTY-THREE-D OF THIS CHAPTER; OR

4 (E) three thousand dollars for all other such applications.

5 S 3. Paragraph (b) of subdivision 5 of section 18-a of the banking
6 law, as amended by chapter 155 of the laws of 2012, is amended to read
7 as follows:

8 (b) two thousand dollars when the application relates to the licensing
9 of an additional location or change of location or the licensing of a
10 mobile unit of a licensed casher of checks. AN ADDITIONAL FEE OF TWO
11 HUNDRED FIFTY DOLLARS SHALL BE IMPOSED UPON A LICENSED CASHER OF CHECKS
12 IF IT ENGAGES IN SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTIONS. SUCH
13 ADDITIONAL FEE SHALL BE RETAINED BY THE DEPARTMENT TO BE USED SOLELY FOR
14 THE PURPOSE OF OPERATING THE LOAN ELIGIBILITY REGISTRY ESTABLISHED
15 PURSUANT TO SECTION THREE HUNDRED SEVENTY-THREE-D OF THIS CHAPTER; or

16 S 4. The third undesignated paragraph of section 340 of the banking
17 law, as added by chapter 22 of the laws of 1990, is amended to read as
18 follows:

19 Nothing in this article shall apply to licensed collateral loan
20 brokers OR LICENSED CASHERS OF CHECKS.

21 S 5. Subdivision 1 of section 373 of the banking law, as amended by
22 chapter 432 of the laws of 2004, is amended to read as follows:

23 1. [No] EXCEPT AS OTHERWISE AUTHORIZED BY THE PROVISIONS OF THIS ARTI-
24 CLE, NO licensee shall engage in the business of making loans of money,
25 credit, goods or things or discounting of notes, bills of exchange,
26 checks, or other evidences of debt pursuant to the provisions of article
27 nine of this chapter, nor shall a loan business or the negotiation of
28 loans or the discounting of notes, bills of exchange, checks or other
29 evidences of debt be conducted on the same premises where the licensee
30 is conducting business pursuant to the provisions of this article,
31 UNLESS SUCH ACTIVITY IS SPECIFICALLY AUTHORIZED BY THE PROVISIONS OF
32 THIS ARTICLE. Except as otherwise provided by regulation of the super-
33 intendent, all checks, drafts and money orders shall be deposited in the
34 licensee's bank account not later than the first business day following
35 the day on which they were cashed. No licensee shall at any time cash or
36 advance any moneys on a post-dated check or draft or engage in the busi-
37 ness of transmitting money or receiving money for transmission;
38 provided, however, that a licensee may cash a check payable on the first
39 banking business day following the date of cashing (a) if such check is
40 drawn by the United States, the state of New York, or any political
41 subdivision of the state of New York, or by any department, bureau,
42 agency, authority, instrumentality or officer, acting in his official
43 capacity, of the United States or of the state of New York or of any
44 political subdivision of the state of New York, or (b) if such check is
45 a payroll check drawn by an employer to the order of its employee in
46 payment for services performed by such employee. No licensee shall cash
47 any check, draft or money order if the face amount for which it is drawn
48 is in excess of fifteen thousand dollars; provided, however, that this
49 restriction shall not apply to the cashing of checks, drafts or money
50 orders drawn by the United States, any state thereof or any political
51 subdivision of any such state, or by any department, bureau, agency,
52 authority, instrumentality or officer, acting in his official capacity,
53 of the United States, any state thereof or any political subdivision of
54 any such state, or any banking institution, or to any check or draft
55 drawn by any insurance company, any broker or dealer registered with the
56 securities and exchange commission, or any attorney for the settlement

1 of claims, or to any check which has been certified by the banking
2 institution on which it has been drawn; provided further, however, that
3 any such restriction upon the maximum face amount that may be cashed by
4 a licensee shall not apply to the cashing of checks, drafts or money
5 orders by licensees for payees of such checks, drafts or money orders
6 that are other than natural persons. For purposes of this subdivision,
7 "banking institution" means any bank, trust company, savings bank,
8 savings and loan association or credit union which is incorporated,
9 chartered or organized under the laws of this state or any other state
10 or the United States.

11 S 6. The banking law is amended by adding eight new sections 373-a,
12 373-b, 373-c, 373-d, 373-e, 373-f, 373-g and 373-h to read as follows:

13 S 373-A. 1. SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTIONS.
14 NOTWITHSTANDING ANY PROVISION OF SECTION THREE HUNDRED SEVENTY-THREE OF
15 THIS ARTICLE TO THE CONTRARY, A LICENSEE MAY ENGAGE IN SHORT-TERM FINAN-
16 CIAL SERVICES LOAN TRANSACTIONS AT THE LICENSEE'S PLACE OF BUSINESS,
17 PROVIDED THAT SUCH TRANSACTIONS ARE CONDUCTED PURSUANT TO THE PROVISIONS
18 OF THIS ARTICLE.

19 2. ANY PERSON NOT LICENSED IN ACCORDANCE WITH THE PROVISIONS OF THIS
20 CHAPTER SHALL BE PROHIBITED FROM ADVERTISING OR MAKING A SHORT-TERM
21 FINANCIAL SERVICES LOAN VIA THE INTERNET.

22 S 373-B. TERMS OF SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTIONS. 1.
23 NO LICENSEE SHALL ENGAGE IN THE BUSINESS OF OFFERING SHORT-TERM FINAN-
24 CIAL SERVICES LOANS IN AMOUNTS OF LESS THAN THREE HUNDRED DOLLARS NOR
25 MORE THAN TWO THOUSAND DOLLARS, OR MORE THAN TWENTY-FIVE PERCENT OF THE
26 BORROWER'S GROSS MONTHLY INCOME, WHICHEVER SHALL BE LESS. A LICENSED
27 CASHER OF CHECKS SHALL NOT CONTRACT FOR, EXACT OR RECEIVE, DIRECTLY OR
28 INDIRECTLY, ON OR IN CONNECTION WITH ANY LOAN, ANY CHARGES WHETHER FOR
29 INTEREST, COMPENSATION, CONSIDERATION, EXPENSE OR ANY OTHER PURPOSE,
30 WHICH IN THE AGGREGATE ARE GREATER THAN AUTHORIZED IN THIS ARTICLE.

31 2. THE TERM OF A SHORT-TERM FINANCIAL SERVICES LOAN SHALL BE NOT LESS
32 THAN NINETY DAYS NOR MORE THEN ONE HUNDRED EIGHTY DAYS. A LICENSEE WHICH
33 MAKES A SHORT-TERM FINANCIAL SERVICES LOAN SHALL OFFER THE BORROWER THE
34 OPPORTUNITY TO PAY THE PRINCIPAL, FEES AND INTEREST AUTHORIZED BY THIS
35 ARTICLE IN SUBSTANTIALLY EQUAL INSTALLMENTS OVER THE TERM OF THE LOAN
36 WITH THE EXCEPTION OF THE FIRST PAYMENT. SUCH INSTALLMENTS SHALL BE DUE
37 NOT MORE THAN TWO DAYS AFTER THE DATE ON WHICH THE BORROWER RECEIVES A
38 REGULARLY SCHEDULED INCOME PAYMENT; PROVIDED, HOWEVER, THAT THERE SHALL
39 BE AT LEAST A THIRTEEN DAY PERIOD BETWEEN EACH INSTALLMENT. FURTHER-
40 MORE, THE FIRST INSTALLMENT SHALL NOT BE DUE BEFORE THE BORROWER'S NEXT
41 PAY DATE THAT IS AT LEAST THIRTEEN DAYS AFTER THE SHORT-TERM FINANCIAL
42 SERVICES LOAN TRANSACTION IS CONSUMMATED. EVERY SHORT-TERM FINANCIAL
43 SERVICES LOAN SHALL HAVE NOT LESS THAN TWO SCHEDULED INSTALLMENTS. NO
44 SCHEDULED INSTALLMENT PAYMENT SHALL EXCEED TEN PERCENT OF THE BORROWER'S
45 GROSS MONTHLY INCOME.

46 3. A LICENSEE MAY PROVIDE THE PROCEEDS OF A SHORT-TERM FINANCIAL
47 SERVICES LOAN TO THE BORROWER IN THE FORM OF A NEGOTIABLE INSTRUMENT,
48 MONEY ORDER, CASH OR REASONABLE ELECTRONIC PAYMENT METHOD. NO ADDITIONAL
49 FEE MAY BE CHARGED TO THE BORROWER BY THE LICENSEE MAKING THE LOAN IN
50 ORDER FOR THE BORROWER TO GAIN ACCESS TO THE PROCEEDS OF SUCH A LOAN.

51 4. SHORT-TERM FINANCIAL SERVICES LOANS, WHETHER IN SCHEDULED INSTALL-
52 MENTS OR IN WHOLE, MAY BE REPAYED BY THE BORROWER IN CASH, ELECTRONIC
53 FUNDS TRANSFER FROM THE BORROWER'S BANK ACCOUNT OR ANY OTHER REASONABLE
54 PAYMENT MECHANISM. IF AN ELECTRONIC FUNDS TRANSFER OR OTHER REASONABLE
55 PAYMENT MECHANISM IS ELECTED AS THE METHOD FOR REPAYING A SHORT-TERM
56 FINANCIAL SERVICES LOAN, THE BORROWER MAY MAKE ANY SCHEDULED PAYMENT TO

1 THE LICENSEE AT ANY TIME, IN WHOLE OR IN PART, OF ANY PAYMENT INSTALL-
2 MENT. EVERY LICENSEE SHALL PROVIDE A BORROWER WITH A DATED RECEIPT SHOW-
3 ING THE AMOUNT PAID AND THE BALANCE DUE ON THE LOAN AFTER EACH PAYMENT.

4 5. NO SHORT-TERM FINANCIAL SERVICES LOAN SHALL BE PROVIDED TO ANY
5 PERSON, UNTIL THE LICENSEE SHALL HAVE PROVIDED SUCH PERSON WITH A COPY
6 OF A WRITTEN AGREEMENT RELATING TO SUCH LOAN, WHICH SHALL BE SIGNED BY
7 THE LICENSEE AND THE BORROWER, AND WHICH SHALL INCLUDE:

8 (A) THE NAME AND ADDRESS OF THE BORROWER;

9 (B) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE LICENSEE, AND THE
10 NAME AND TITLE OF THE AGENT OF THE LICENSEE WHO SIGNS THE AGREEMENT ON
11 BEHALF OF THE LICENSEE;

12 (C) THE DATE OF THE AGREEMENT;

13 (D) A SCHEDULE OR DESCRIPTION OF REQUIRED INSTALLMENT PAYMENTS,
14 INCLUDING THE PRINCIPAL AMOUNT OF THE LOAN, APPLICABLE INTEREST RATES,
15 FEES CHARGED AND METHOD OF PAYMENT;

16 (E) NOTICE THAT THE BORROWER SHALL HAVE THE RIGHT TO PREPAY THE LOAN
17 PRIOR TO MATURITY BY PAYING THE LICENSEE THE PRINCIPAL AMOUNT AND ALL
18 ACCRUED AND UNPAID INTEREST, FEES AND CHARGES;

19 (F) NOTICE THAT THE BORROWER HAS THE RIGHT TO RESCIND THE SHORT-TERM
20 FINANCIAL SERVICES LOAN PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION;

21 (G) NOTICE THAT THE BORROWER MAY NOT TAKE OUT MORE THAN ONE SHORT-TERM
22 FINANCIAL SERVICES LOAN AT A TIME; AND

23 (H) THE FOLLOWING STATEMENT IN AT LEAST FOURTEEN POINT BOLD FACE TYPE:

24 (I) CREDIT COUNSELING AVAILABILITY. YOU, THE BORROWER, SHOULD CONSIDER
25 CONTACTING AN INDEPENDENT, NOT-FOR-PROFIT CREDIT COUNSELING AGENCY
26 APPROVED BY THE SUPERINTENDENT OF FINANCIAL SERVICES.

27 (II) NO CRIMINAL PROSECUTION OR SECURITY INTEREST. YOU CANNOT BE
28 PROSECUTED IN CRIMINAL COURT TO COLLECT ANY OUTSTANDING DEBT ON THIS
29 LOAN, AND THE LENDER MAY NOT TAKE OR ATTEMPT TO TAKE AN INTEREST IN ANY
30 OF YOUR REAL OR PERSONAL PROPERTY TO SECURE THIS LOAN.

31 THE SUPERINTENDENT MAY, BY RULE AND REGULATION, PROMULGATE THE CONTACT
32 INFORMATION AND OTHER DISCLOSURES TO BE PROVIDED IN THE NOTICES REQUIRED
33 UNDER THIS PARAGRAPH.

34 6. EVERY LICENSEE SHALL MAKE READILY AVAILABLE TO EACH BORROWER, IN A
35 FORM PRESCRIBED BY THE SUPERINTENDENT, A FULL AND ACCURATE SCHEDULE OF
36 CHARGES ON ALL SHORT-TERM FINANCIAL SERVICES LOANS.

37 7. A BORROWER MAY RESCIND A SHORT-TERM FINANCIAL SERVICES LOAN TRANS-
38 ACTION FOR ANY REASON, NOT LATER THAN THE CLOSE OF BUSINESS ON THE BUSI-
39 NESS DAY NEXT SUCCEEDING THE DAY ON WHICH SUCH TRANSACTION WAS ENTERED
40 INTO, BY INFORMING THE LICENSEE IN WRITING THAT SUCH BORROWER WANTS TO
41 RESCIND THE TRANSACTION AND DELIVERING THE FULL AMOUNT OF THE PROCEEDS
42 OF SUCH TRANSACTION TO THE LICENSEE. UPON THE DELIVERY OF THE PROCEEDS
43 OF A LOAN TO THE BORROWER PURSUANT TO THIS SUBDIVISION, ALL FEES AND
44 CHARGES IMPOSED BY THE LICENSEE UPON THE BORROWER SHALL BE REFUNDED. THE
45 LICENSEE SHALL PROVIDE THE BORROWER WITH A RECEIPT AS PROOF THAT THE
46 TRANSACTION HAS BEEN RESCINDED.

47 8. UPON THE COMPLETION OF ALL PAYMENTS ON A SHORT-TERM FINANCIAL
48 SERVICES LOAN BY A BORROWER, ANY LICENSEE MAY ENTER INTO A NEW
49 SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTION WITH SUCH BORROWER.

50 9. A BORROWER MAY REFINANCE A SHORT-TERM FINANCIAL SERVICES LOAN A
51 SINGLE TIME PRIOR TO THE MATURITY OF SUCH LOAN IF THE BORROWER HAS MADE
52 NOT LESS THAN THREE CONSECUTIVE INSTALLMENT PAYMENTS THEREON IN A TIMELY
53 MANNER. NO ADDITIONAL APPLICATION FEE SHALL BE CHARGED FOR SUCH REFI-
54 NANCE OF THE SHORT-TERM FINANCIAL SERVICES LOAN. A BORROWER WHO HAS
55 REFINANCED A SHORT-TERM FINANCIAL SERVICES LOAN SHALL NOT BE ELIGIBLE

FOR A NEW OR ADDITIONAL CREDIT ADVANCE FROM ANY LICENSEE UNTIL SUCH LOAN IS PAID IN FULL.

S 373-C. FEES AND CHARGES. 1. A LICENSEE MAY CHARGE, CONTRACT FOR AND RECEIVE THE FOLLOWING INTEREST AND FEES IN CONNECTION WITH A SHORT-TERM FINANCIAL SERVICES LOAN:

(A) INTEREST AT AN ANNUAL PERCENTAGE RATE OF NO MORE THAN TWENTY-FIVE PERCENT;

(B) AN APPLICATION FEE NOT TO EXCEED TWENTY-FIVE DOLLARS. SUCH FEE IS DEEMED TO BE EARNED AT THE TIME THE LOAN IS MADE AND SHALL NOT BE SUBJECT TO REFUND, EXCEPT FOR THE FULL REFUND OF ALL FEES AND CHARGES AFTER RECISSION AS PROVIDED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THIS ARTICLE; AND

(C) A MONTHLY MAINTENANCE FEE NOT TO EXCEED FIFTEEN DOLLARS PER MONTH, FOR THE DURATION OF THE LOAN TERM.

2. IN THE EVENT THERE ARE INSUFFICIENT FUNDS TO HONOR ANY NEGOTIABLE INSTRUMENT, ELECTRONIC FUNDS TRANSFER DEBIT OR OTHER REASONABLE ELECTRONIC PAYMENT MECHANISM PROVIDED TO A LICENSEE FOR A SCHEDULE PAYMENT ON BEHALF OF A BORROWER, SUCH LICENSEE MAY IMPOSE A PROCESSING FEE UPON THE BORROWER PURSUANT TO SECTION 5-328 OF THE GENERAL OBLIGATIONS LAW. ONLY ONE SUCH FEE MAY BE IMPOSED WITH RESPECT TO EACH DISHONORED NEGOTIABLE INSTRUMENT, ELECTRONIC FUNDS TRANSFER DEBIT OR OTHER REASONABLE ELECTRONIC PAYMENT MECHANISM.

3. THE PROVISIONS OF SECTION 5-501 OF THE GENERAL OBLIGATIONS LAW AND SECTIONS 190.40, 190.42 AND 190.45 OF THE PENAL LAW SHALL NOT APPLY TO THE PROVISION OF SHORT-TERM FINANCIAL SERVICES LOANS PURSUANT TO THIS ARTICLE.

4. INTEREST ON SHORT-TERM FINANCIAL SERVICES LOANS SHALL NOT BE PAID, DEDUCTED OR RECEIVED IN ADVANCE. NOR SHALL INTEREST THEREON BE COMPOUNDED, HOWEVER INTEREST ON AN EXTENSION OF CREDIT SHALL:

(A) BE COMPUTED AND PAID ONLY AS A PERCENTAGE OF THE UNPAID PRINCIPAL BALANCE OR PORTION OF THE UNPAID PRINCIPAL BALANCE; AND

(B) BE COMPUTED ON THE BASIS OF THE NUMBER OF DAYS ACTUALLY ELAPSED. ALL SUCH INTEREST SHALL BE PAID BEFORE SUCH A LOAN MAY BE PAID IN FULL.

S 373-D. LOAN ELIGIBILITY REGISTRY. 1. THE SUPERINTENDENT SHALL ESTABLISH AND MAINTAIN A REGISTRY WHICH SHALL BE ACCESSIBLE BY LICENSEES BY TELEPHONE AND THE INTERNET. THE PURPOSE OF SUCH REGISTRY SHALL BE TO ENABLE LICENSEES TO VERIFY WHETHER ANY PERSON HAS AN OUTSTANDING SHORT-TERM FINANCIAL SERVICES LOAN. EACH LICENSEE SHALL SUBMIT TO THE SUPERINTENDENT, PRIOR TO ENTERING INTO ANY SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTION, DATA RELATING TO SUCH TRANSACTION, IN SUCH FORMAT AS THE SUPERINTENDENT SHALL DETERMINE, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE BORROWER'S NAME, EMPLOYMENT AUTHORIZATION ALIEN NUMBER, ADDRESS, DRIVER'S LICENSE NUMBER, AMOUNT OF LOAN, DATE OF LOAN TRANSACTION, THE SCHEDULE OF INSTALLMENT PAYMENTS AND THE DATE THAT THE TRANSACTION WILL BE CLOSED. EVERY LICENSEE MAY RELY ON THE INFORMATION IN THE LOAN ELIGIBILITY REGISTRY AS ACCURATE AND NOT BE SUBJECT TO ANY ADMINISTRATIVE PENALTY OR CIVIL LIABILITY AS THE RESULT OF RELYING UPON INACCURATE INFORMATION CONTAINED IN SUCH REGISTRY.

2. PRIOR TO ENTERING INTO ANY SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTION, A LICENSEE SHALL QUERY THE LOAN ELIGIBILITY REGISTRY AND SHALL RETAIN EVIDENCE OF SUCH QUERY FOR REVIEW BY THE SUPERINTENDENT FOR A PERIOD OF FIVE YEARS. SUCH REGISTRY SHALL ONLY AUTHORIZE A LICENSEE TO ENTER INTO A SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTION IF THE TRANSACTION IS AUTHORIZED PURSUANT TO THIS ARTICLE. DURING ANY PERIOD OF TIME THAT THE INFORMATION ON THE LOAN ELIGIBILITY REGISTRY IS UNAVAILABLE FOR ANY REASON, A LICENSEE MAY RELY ON THE APPLICANT'S WRITTEN

1 REPRESENTATIONS TO VERIFY THAT ENTERING INTO A SHORT-TERM FINANCIAL
2 SERVICES LOAN TRANSACTION WITH THE APPLICANT IS PERMISSIBLE.

3 3. THE SUPERINTENDENT AND DEPARTMENT SHALL MAINTAIN THE LOAN ELIGIBIL-
4 ITY REGISTRY AND TAKE ALL ACTIONS NECESSARY TO PROTECT THE CONFIDENTIAL-
5 ITY AND SECURITY OF THE INFORMATION AND DATA CONTAINED THEREIN. SUCH
6 REGISTRY MAY BE UTILIZED BY THE DEPARTMENT FOR THE PURPOSE OF ENFORCING
7 THE PROVISIONS OF THIS ARTICLE. INFORMATION AND DATA IN THE REGISTRY
8 SHALL NOT BE DISTRIBUTED TO ANY PERSON OR ENTITY FOR PROFIT NOR SOLD TO
9 ANY PARTY OR ENTITY.

10 4. UPON A LICENSEE'S QUERY OF THE REGISTRY, SUCH REGISTRY SHALL INDI-
11 CATE WHETHER AN APPLICANT FOR A SHORT-TERM FINANCIAL SERVICES LOAN IS
12 ELIGIBLE FOR SUCH A LOAN AND, IF THE APPLICANT IS INELIGIBLE, THE REASON
13 FOR SUCH INELIGIBILITY. THE LOAN ELIGIBILITY REGISTRY SHALL BE DEEMED
14 CONFIDENTIAL AND NOT SUBJECT TO THE PROVISIONS OF ARTICLE SIX OF THE
15 PUBLIC OFFICERS LAW.

16 5. ALL EXPENSES OF THE DEPARTMENT FOR THE ESTABLISHMENT AND OPERATION
17 OF THE LOAN ELIGIBILITY REGISTRY ESTABLISHED PURSUANT TO SECTION THREE
18 HUNDRED SEVENTY-THREE-D OF THIS ARTICLE SHALL BE CHARGED AND ALLOCATED
19 AMONG ALL LICENSED CASHERS OF CHECKS WHICH ENGAGE IN SHORT-TERM FINAN-
20 CIAL SERVICES LOAN TRANSACTIONS.

21 S 373-E. PROHIBITED ACTS. 1. NO LICENSEE SHALL CAUSE A BORROWER TO BE
22 OBLIGATED ON MORE THAN ONE SHORT-TERM FINANCIAL SERVICES LOAN AT ANY
23 SINGLE TIME.

24 2. NO LICENSEE SHALL TAKE AN ASSIGNMENT OF THE EARNINGS OF A BORROWER
25 FOR THE PAYMENT OR AS SECURITY FOR THE PAYMENT OF ANY SHORT-TERM FINAN-
26 CIAL SERVICES LOAN. EVERY ASSIGNMENT OF EARNINGS IN VIOLATION OF THIS
27 SUBDIVISION SHALL BE VOID AND UNENFORCEABLE BY THE ASSIGNEE.

28 3. NO LICENSEE SHALL RENEW OR EXTEND ANY SHORT-TERM FINANCIAL SERVICES
29 LOAN FOR A FEE, EXCEPT AS PROVIDED IN SUBDIVISION NINE OF SECTION THREE
30 HUNDRED SEVENTY-THREE-B OF THIS ARTICLE.

31 4. NO LICENSEE SHALL THREATEN OR CAUSE TO BE FILED ANY CRIMINAL
32 COMPLAINT AGAINST A BORROWER WHO FAILS TO MAKE ANY SCHEDULED PAYMENT.

33 5. A SHORT-TERM FINANCIAL SERVICES LOAN AGREEMENT SHALL ONLY BE
34 ENFORCEABLE, WITH REGARD TO A DEFAULT BY THE BORROWER, TO THE EXTENT
35 THAT THE BORROWER FAILS TO MAKE A SCHEDULED PAYMENT PURSUANT TO SUCH
36 AGREEMENT.

37 6. NO SHORT-TERM FINANCIAL SERVICES LOAN AGREEMENT SHALL PROVIDE FOR
38 THE PAYMENT BY THE BORROWER OF THE LICENSEE'S ATTORNEYS FEES.

39 7. NO LICENSEE SHALL REQUIRE THE BORROWER TO AGREE TO OR EXECUTE ANY
40 CONFESSION OF JUDGMENT OR POWER OF ATTORNEY IN FAVOR OF ANY LICENSEE OR
41 IN FAVOR OF ANY OTHER PERSON, AND SUCH CONFESSION SHALL BE VOID AND
42 UNENFORCEABLE.

43 8. NO SHORT-TERM FINANCIAL SERVICES LOAN SHALL IN ANY MANNER BE
44 SECURED BY PERSONAL OR REAL PROPERTY.

45 9. NO LICENSEE SHALL ADVERTISE, DISPLAY, DISTRIBUTE, TELECAST OR
46 BROADCAST, OR CAUSE OR PERMIT TO BE ADVERTISED, DISPLAYED, DISTRIBUTED,
47 TELECAST OR BROADCAST, IN ANY MANNER WHATSOEVER, ANY FALSE, MISLEADING
48 OR DECEPTIVE STATEMENT WITH REGARD TO THE RATES, TERMS, FEES OR CONDI-
49 TIONS FOR SHORT-TERM FINANCIAL SERVICES LOAN TRANSACTIONS.

50 S 373-F. FINANCIAL EDUCATION FUND. A FINANCIAL EDUCATION FUND IS HERE-
51 BY CREATED IN THE STATE TREASURY, WHICH SHALL BE FUNDED BY LICENSED
52 CHECK CASHERS OFFERING FINANCIAL SERVICES LOANS. FUNDING OF THE FINAN-
53 CIAL EDUCATION FUND WILL CONSIST OF LICENSEES CONTRIBUTING FIFTY CENTS
54 FROM THE APPLICATION FEE PRESCRIBED IN SUBDIVISION ONE OF SECTION THREE
55 HUNDRED SEVENTY-THREE-C OF THIS ARTICLE UPON FULL RE-PAYMENT OF A FINAN-
56 CIAL SERVICES LOAN. THE SUPERINTENDENT SHALL COLLECT THE FINANCIAL

1 EDUCATION ASSESSMENT FROM LICENSEES AS PART OF THE ANNUAL ASSESSMENT OF
2 THE INDUSTRY AND SAID FUNDS SHALL BE DEPOSITED BY THE SUPERINTENDENT IN
3 THE STATE TREASURY. BEGINNING WITHIN NINETY DAYS AFTER THE FIRST ANNUAL
4 ASSESSMENT, THE FINANCIAL EDUCATION FUND SHALL BE USED TO SUPPORT VARI-
5 OUS FINANCIAL EDUCATION PROGRAMS DEVELOPED OR IMPLEMENTED BY THE SUPER-
6 INTENDENT AFTER CONSULTING WITH THE LICENSED CHECK CASHING INDUSTRY. THE
7 FUND SHALL BE ADMINISTERED BY THE SUPERINTENDENT WHO SHALL ADOPT REGU-
8 LATIONS FOR THE DISTRIBUTION OF THE FUNDS. THE SUPERINTENDENT SHALL
9 ADOPT REGULATIONS TO REQUIRE THAT AT LEAST ONE-HALF OF THE FINANCIAL
10 EDUCATION PROGRAMS DEVELOPED OR IMPLEMENTED PURSUANT TO THIS SECTION,
11 AND OFFERED TO THE PUBLIC, BE PRESENTED BY OR AVAILABLE AT PUBLIC COMMU-
12 NITY COLLEGES OR STATE INSTITUTIONS THROUGHOUT THE STATE. THE SUPER-
13 INTENDENT SHALL ALSO ADOPT REGULATIONS TO REQUIRE THAT A PORTION OF THE
14 FINANCIAL EDUCATION PROGRAMS DEVELOPED OR IMPLEMENTED BE USED TO SUPPORT
15 FINANCIAL EDUCATION PROGRAMS FOR PUBLIC EMPLOYEES OR OTHER DIRECTED
16 GROUPS. THE SUPERINTENDENT SHALL DELIVER TO THE GOVERNOR AN ANNUAL
17 REPORT THAT INCLUDES AN OUTLINE OF EACH FINANCIAL EDUCATION PROGRAM
18 DEVELOPED OR IMPLEMENTED, THE NUMBER OF INDIVIDUALS WHO WERE EDUCATED BY
19 EACH PROGRAM, AND AN ACCOUNTING FOR ALL FUNDS DISTRIBUTED.

20 S 373-G. LICENSEE BOOKS AND RECORDS. EVERY LICENSEE SHALL MAINTAIN ALL
21 SUCH BOOKS, ACCOUNTS AND RECORDS AS WILL ENABLE THE SUPERINTENDENT TO
22 ENFORCE THE PROVISIONS OF THIS ARTICLE.

23 S 373-H. EXAMINATION OF SHORT-TERM FINANCIAL SERVICES TRANSACTIONS.
24 THE SUPERINTENDENT, OR HIS OR HER DESIGNEE, MAY FROM TIME TO TIME INVES-
25 TIGATE THE SHORT-TERM FINANCIAL SERVICES TRANSACTIONS AND BUSINESS, AND
26 EXAMINE THE BOOKS, ACCOUNTS, AND RECORDS RELATING THERETO OF EVERY
27 LICENSEE.

28 S 7. This act shall take effect on the one hundred eightieth day after
29 it shall have become a law; provided, however, that effective immediate-
30 ly, any rules and regulations necessary to implement the provisions of
31 this act on its effective date shall be added, amended and/or repealed
32 on or before such date.