S T A T E O F N E W Y O R K

6805--B

Cal. No. 597

I N S E N A T E

March 12, 2014

Introduced by Sens. LANZA, KENNEDY, RITCHIE -- 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 -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in 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:

Section 1. The banking law is amended by adding a new section 9-v to read as follows:

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

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

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

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

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

LBD13805-06-4

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

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

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

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

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

S 2. Section 96 of the banking law is amended by adding a new subdivision 15 to read as follows:

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

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

B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDIRECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTICIPATION IN SUCH SAVINGS PROMOTION.

S 3. Section 234 of the banking law is amended by adding a new subdivision 26 to read as follows:

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

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

B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDIRECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTICIPATION IN SUCH SAVINGS PROMOTION.

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

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

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

B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDIRECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTICIPATION IN SUCH SAVINGS PROMOTION.

S 5. Section 454 of the banking law is amended by adding a new subdivision 37 to read as follows:

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

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

B. NO PARTICIPANT IN A SAVINGS PROMOTION FOREGOES, DIRECTLY OR INDIRECTLY, ANY INTEREST THAT WOULD CONSTITUTE CONSIDERATION FOR PARTICIPATION IN SUCH SAVINGS PROMOTION.

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