

6105

2015-2016 Regular Sessions

I N A S S E M B L Y

March 16, 2015

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

AN ACT to amend the banking law, in relation to loan products that may be offered by banks

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

1 Section 1. Paragraph (c) of subdivision 4 of section 108 of the bank-
2 ing law, as amended by chapter 19 of the laws of 1991, subparagraph (iv)
3 as amended by chapter 119 of the laws of 1992 and as further amended by
4 section 104 of part A of chapter 62 of the laws of 2011, is amended to
5 read as follows:
6 (c) The rate of interest authorized by this subdivision shall be
7 inclusive of all charges incident to investigating and making any loan.
8 No fee, commission, expense, or other charge whatsoever in addition
9 thereto shall be taken, received, reserved, or contracted for, except
10 (i) the fees payable to the appropriate public officer to perfect any
11 lien or other security interest taken to secure the loan or the premium,
12 not in excess of such filing fee, payable for any insurance in lieu of
13 such filing; (ii) in case of default, and in accordance with the
14 provisions of the instrument evidencing the obligation, either a fine in
15 an amount not to exceed five cents per dollar on any installment which
16 has become due and remained unpaid for a period in excess of ten days,
17 but no such fine shall exceed five dollars and only one fine shall be
18 collected on any such installment regardless of the period during which
19 it remains in default, and provided further that should the aggregate of
20 such fines collected in connection with any loan exceed two per centum
21 of such loan, or in any event twenty-five dollars, the bank or trust
22 company shall refund such excess to the borrower within sixty days after
23 the loan is paid in full, or, subject to an allowance of unearned interest
24 attributable to the amount in default, interest on each amount past
25 due at a rate not in excess of the rate provided for in the instrument

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

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1 evidencing the obligation; (iii) the actual expenditures, including
2 reasonable attorney's fees for necessary court process; and (iv) in case
3 the bank or trust company insures a borrower under a credit unemployment
4 insurance policy, group life insurance policy, group health insurance
5 policy, group accident insurance policy, or group health and accident
6 insurance policy, or requires insurance on personal property securing
7 any such loan, an amount not in excess of the premiums chargeable in
8 accordance with rate schedules then in effect and on file with the
9 superintendent of financial services for such insurance by the insurer.
10 No bank or trust company shall require a borrower to place any sum on
11 deposit, or to make deposits in lieu of regular periodic installment
12 payments, or to do or refrain from doing any other act which would
13 entail additional expense or sacrifice, as a condition precedent to
14 granting a loan under the authority of this subdivision except as
15 provided in subdivision five-b of this section. NOTWITHSTANDING THE
16 FOREGOING, A BANK OR TRUST COMPANY MAY, WITH THE PRIOR APPROVAL OF THE
17 SUPERINTENDENT, OFFER A LOAN PRODUCT THAT ENCOURAGES PERSONAL SAVINGS BY
18 REQUIRING A BORROWER TO PLACE A PORTION OF THE PRINCIPAL OF THE LOAN
19 INTO AN INTEREST-BEARING SAVINGS ACCOUNT AS A CONDITION PRECEDENT TO
20 GRANTING A LOAN UNDER THE AUTHORITY OF THIS SUBDIVISION. IN DECIDING
21 WHETHER TO APPROVE A LOAN PRODUCT PURSUANT TO THE PRECEDING SENTENCE,
22 THE SUPERINTENDENT MAY CONSIDER THE SAFETY AND SOUNDNESS OF THE BANK OR
23 TRUST COMPANY THAT IS PROPOSING TO OFFER THE LOAN PRODUCT, THE BANK OR
24 TRUST COMPANY'S MANAGEMENT, THE RECENT RESULTS OF EXAMINATIONS OF THE
25 BANK OR TRUST COMPANY, THE TERMS AND STRUCTURE OF, AND THE UNDERWRITING
26 CRITERIA AND MARKETING PLAN FOR THE PROPOSED LOAN PRODUCT, OTHER LOANS
27 OFFERED BY THE BANK OR TRUST COMPANY, AND ANY OTHER FACTORS THE SUPER-
28 INTENDENT DETERMINES TO BE RELEVANT. Notwithstanding the provisions of
29 this paragraph no refund of excess fines shall be required if it amounts
30 to less than one dollar.
31 S 2. This act shall take effect immediately.