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I N   S E N A T E

March 11, 2016

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Introduced by Sens. SAVINO, AVELLA, CARLUCCI -- 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 "community financial services access and modernization act of 2016"; and providing for the repeal of certain provisions upon expiration thereof

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 as and may be cited as  
2     the "community financial services access and modernization act of 2016".  
3     S 2. Paragraph (b) of subdivision 5 of section 18-a of the banking  
4     law, as amended by chapter 155 of the laws of 2012, is amended to read  
5     as follows:  
6     (b) two thousand dollars when the application relates to the licensing  
7     of an additional location or change of location or the licensing of a  
8     [mobile unit] LIMITED STATION of a licensed [cashier of checks] FINAN-  
9     CIAL SERVICES PROVIDER; or  
10    S 3. The third undesignated paragraph of section 340 of the banking  
11    law, as added by chapter 22 of the laws of 1990, is amended to read as  
12    follows:  
13    Nothing in this article shall apply to licensed collateral loan  
14    brokers OR LICENSED FINANCIAL SERVICES PROVIDERS.  
15    S 4. Section 366 of the banking law, as amended by chapter 49 of the  
16    laws of 1961, subdivision 1 as amended by chapter 849 of the laws of  
17    1964 and as further amended by section 104 of part A of chapter 62 of  
18    the laws of 2011, subdivisions 2 and 3 as renumbered by chapter 132 of  
19    the laws of 1969, is amended to read as follows:  
20    S 366. Definitions. When used in this article. 1. The term "licensed  
21    [cashier of checks] FINANCIAL SERVICES PROVIDER" means any [individual,  
22    partnership, unincorporated association or corporation] PERSON duly  
23    licensed by the superintendent of financial services to engage in busi-  
24    ness pursuant to the provisions of this article.

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

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1     2. The term "licensee" means a PERSON licensed [cashier of checks,  
2 drafts and/or money orders] TO PROVIDE FINANCIAL SERVICES REGULATED BY  
3 THIS ARTICLE.

4     3. The term ["mobile unit"] "LIMITED STATION" means any vehicle or  
5 other movable means from which the business of [cashing checks, drafts  
6 or money orders] PROVIDING FINANCIAL SERVICES REGULATED BY THIS ARTICLE  
7 is to be conducted.

8     4. THE TERM "PERSON" MEANS ANY INDIVIDUAL OR OTHER LEGAL ENTITY,  
9 INCLUDING ANY CORPORATION, PARTNERSHIP, ASSOCIATION OR LIMITED LIABILITY  
10 COMPANY.

11     5. THE TERM "CONDUIT SERVICES" MEANS ANY ACTIVITY PERMITTED TO BE  
12 OFFERED BY A LICENSEE UNDER THIS ARTICLE TO ITS CUSTOMERS IN COLLAB-  
13 ORATION WITH A STATE OR FEDERALLY CHARTERED BANK OR CREDIT UNION SUBJECT  
14 TO THE APPROVAL OF THE SUPERINTENDENT, INCLUDING BUT NOT LIMITED TO:

15     (A) BUSINESS AND COMMERCIAL LOANS OFFERED BY LICENSEES THAT ARE  
16 LICENSED UNDER ARTICLE NINE OF THIS CHAPTER;

17     (B) ACCOUNT ACCESS SERVICES;

18     (C) BILL PAYMENT SERVICES; AND

19     (D) ASSISTANCE IN PREPARATION AND SUBMISSION OF FORMS TO BE PROCESSED  
20 BY THE COLLABORATING BANK OR CREDIT UNION.

21     6. THE TERM "FINANCIAL SERVICES" MEANS OFFERING OR PROVIDING ANY OF  
22 THE FOLLOWING FINANCIAL PRODUCTS OR SERVICES: (A) THE CASHING OF CHECKS,  
23 DRAFTS AND/OR MONEY ORDERS,

24     (B) MONEY TRANSMISSION SERVICES AS DEFINED IN ARTICLE THIRTEEN-B OF  
25 THIS CHAPTER, PROVIDED, HOWEVER, A LICENSED FINANCIAL SERVICES PROVIDER  
26 OFFERING MONEY TRANSMISSION PURSUANT TO ARTICLE THIRTEEN-B OF THIS CHAP-  
27 TER, OTHER THAN AS AN AGENT OF A LICENSEE, SHALL FIRST OBTAIN A LICENSE  
28 UNDER THAT ARTICLE,

29     (C) BILL PAYMENT SERVICES,

30     (D) THE SALE OF PREPAID DEBIT CARDS; AND

31     (E) CONDUIT SERVICES AS DEFINED IN THIS ARTICLE.

32     7. THE TERM "MASTER LICENSE" SHALL MEAN AN ORIGINAL LICENSE ISSUED BY  
33 THE SUPERINTENDENT THAT AUTHORIZES A PERSON TO ENGAGE IN THE BUSINESS OF  
34 CASHING OF CHECKS AND RELATED FINANCIAL SERVICES, AND IN THE CASE OF A  
35 LICENSEE WHO HAS MULTIPLE LICENSED BUSINESS LOCATIONS AT THE TIME OF THE  
36 EFFECTIVE DATE OF THIS SUBDIVISION, THE INITIAL LONGEST SITE CONTINUOUS-  
37 LY LICENSED UNDER THIS ARTICLE.

38     8. THE TERM "SUPPLEMENTAL LICENSE" SHALL MEAN A LICENSE ISSUED BY THE  
39 SUPERINTENDENT THAT AUTHORIZES A PERSON HAVING A MASTER LICENSE TO  
40 ENGAGE IN THE BUSINESS OF CASHING OF CHECKS AND RELATED FINANCIAL  
41 SERVICES AT BRANCH LOCATIONS, AND IN THE CASE OF A LICENSEE WHO HAS A  
42 MULTIPLE LICENSED BUSINESS LOCATIONS AT THE TIME OF THE EFFECTIVE DATE  
43 OF THIS SUBDIVISION, ANY LICENSE ISSUED TO AN EXISTING LICENSEE AFTER  
44 THE LICENSE FOR THE ORIGINAL SITE.

45     S 5. Section 367 of the banking law, as amended by chapter 151 of the  
46 laws of 1945, subdivision 3 as amended by section 7 of part D-1 of chap-  
47 ter 109 of the laws of 2006, subdivision 4 as amended by chapter 96 of  
48 the laws of 1981, is amended to read as follows:

49     S 367. License requirements; fees; capital requirements. 1. No  
50 person[, partnership, association or corporation] shall engage in the  
51 business of cashing checks, drafts or money orders for a consideration  
52 without first obtaining a license from the superintendent.

53     2. Application for such license shall be in writing, under oath, and  
54 in the form prescribed by the superintendent, and shall contain the  
55 name, and the address both of the residence and place of business, of  
56 the applicant, and if the applicant is a co-partnership [or], associ-

1 ation OR LIMITED LIABILITY COMPANY, of every member thereof, and if a  
2 corporation, of each officer and director thereof; also, if the business  
3 is to be conducted at a specific address, the address at which the busi-  
4 ness is to be conducted, and if the business is to be conducted from a  
5 [mobile unit] LIMITED STATION, the New York state registration number or  
6 other identification of such [mobile unit] LIMITED STATION and the area  
7 in which the applicant proposes to operate such [mobile unit] LIMITED  
8 STATION; and also such further information as the superintendent may  
9 require.

10 3. Such applicant at the time of making such application shall pay to  
11 the superintendent a fee as prescribed pursuant to section eighteen-a of  
12 this chapter for investigating the application. AN APPLICATION FOR A  
13 MASTER LICENSE SHALL BE IN WRITING, UNDER OATH, AND IN THE FORM  
14 PRESCRIBED BY THE SUPERINTENDENT AND SHALL CONTAIN SUCH INFORMATION AS  
15 THE SUPERINTENDENT MAY REQUIRE BY REGULATION. THE APPLICATION SHALL SET  
16 FORTH ALL OF THE LOCATIONS AT WHICH THE APPLICANT SEEKS TO CONDUCT BUSI-  
17 NESS HEREUNDER. AT THE TIME OF MAKING THE APPLICATION FOR A MASTER  
18 LICENSE, AN EXISTING LICENSEE UNDER THIS ARTICLE SHALL PAY TO THE SUPER-  
19 INTENDENT THE SUM OF TWO HUNDRED FIFTY DOLLARS FOR EACH PROPOSED  
20 LOCATION AS A FEE FOR INVESTIGATING THE APPLICATION. AN APPLICANT THAT  
21 DOES NOT CURRENTLY HOLD A LICENSE UNDER THIS ARTICLE AT THE TIME OF  
22 APPLICATION SHALL PAY TO THE SUPERINTENDENT AN APPLICATION FEE AS  
23 PROVIDED IN THIS CHAPTER FOR INITIAL APPLICATIONS. Any licensee request-  
24 ing a change of address, shall at the time of making such request, pay  
25 to the superintendent a fee as prescribed pursuant to section eighteen-a  
26 of this chapter for investigating the new address; provided, however,  
27 that the superintendent may, in his or her discretion, waive such inves-  
28 tigation fee if warranted, and provided further, that no fee shall be  
29 payable for the relocation of a limited station.

30 4. Every applicant shall prove, in form satisfactory to the super-  
31 intendent that he or it has available for the operation of such busi-  
32 ness, for each location and for each [mobile unit] LIMITED STATION spec-  
33 ified in the application, liquid assets of at least ten thousand  
34 dollars, and every licensee shall continuously maintain for the opera-  
35 tion of such business for each location and for each [mobile unit]  
36 LIMITED STATION liquid assets of at least ten thousand dollars. Notwith-  
37 standing the foregoing provisions of this subdivision, the superinten-  
38 dent, upon application by an applicant and for good cause shown, may  
39 permit a reduction from ten thousand dollars to not less than five thou-  
40 sand dollars of minimum liquid assets required for each location.

41 S 6. Section 369 of the banking law, as amended by chapter 151 of the  
42 laws of 1945, subdivision 1 as amended by chapter 233 of the laws of  
43 2005, subdivisions 4 and 5 as amended by chapter 132 of the laws of  
44 1969, subdivision 6 as amended by chapter 164 of the laws of 2003, para-  
45 graph (b) of subdivision 6 as amended by section 6 of part LL of chapter  
46 56 of the laws of 2010, and subdivision 7 as added by chapter 485 of the  
47 laws of 1947, is amended to read as follows:

48 S 369. Conditions precedent to issuing license; issuance and filing of  
49 license; posting license. 1. If the superintendent shall find that the  
50 financial responsibility, experience, character, and general fitness of  
51 the applicant, and of the members thereof if the applicant be a co-part-  
52 nership [or], association OR LIMITED LIABILITY COMPANY, and of the offi-  
53 cers and directors thereof if the applicant be a corporation, are such  
54 as to command the confidence of the community and to warrant belief that  
55 the business will be operated honestly, fairly, and efficiently within  
56 the purposes of this article, and if the superintendent shall find that

1 the granting of such application will promote the convenience and advan-  
2 tage of the area in which such business is to be conducted, and if the  
3 superintendent shall find that the applicant has available for the oper-  
4 ation of such business for each location and for each [mobile unit]  
5 LIMITED STATION specified in the application liquid assets of at least  
6 ten thousand dollars, the superintendent shall thereupon execute a  
7 MASTER license AND IF APPLICABLE ONE OR MORE SUPPLEMENTAL LICENSES in  
8 duplicate to permit the [cashing of checks, drafts and money orders]  
9 DELIVERY OF FINANCIAL SERVICES in accordance with the provisions of this  
10 article at the location OR LOCATIONS or in the area OR AREAS specified  
11 in such application. In finding whether the application will promote the  
12 convenience and advantage to the public, the superintendent shall deter-  
13 mine whether there is a community need for a new licensee in the  
14 proposed area OR AREAS to be served. No license shall be issued to an  
15 applicant for a license, at a location to be licensed which is closer  
16 than one thousand five hundred eighty-four feet (three-tenths of a mile)  
17 from an existing licensee, except with the written consent of such  
18 existing licensee or pursuant to subdivision three of section three  
19 hundred seventy of this article, subject to any restriction or condition  
20 as the superintendent may promulgate by regulation; provided, however,  
21 the superintendent may permit a location to be licensed that is closer  
22 than three-tenths of a mile from an existing licensee provided such  
23 applicant engages in the cashing of checks, drafts or money orders only  
24 for payees of such checks, drafts or money orders that are other than  
25 natural persons at the location to be licensed and such applicant was  
26 engaged in the cashing of such checks, drafts or money orders for payees  
27 that are other than natural persons at such location on or before the  
28 fourteenth day of July, two thousand four, and provided further that  
29 upon licensing any such location by the superintendent, such license as  
30 it pertains solely to such location shall not be affected thereafter by  
31 any change of control of such license pursuant to section three hundred  
32 seventy-a of this article, provided that the licensee continues there-  
33 after to engage at that location in the cashing of checks, drafts or  
34 money orders only for payees that are other than natural persons and  
35 provided further that such license shall bear a legend stating that such  
36 location is restricted to the cashing of checks, drafts or money orders  
37 only for payees that are other than natural persons. The three-tenths of  
38 a mile distance requirement as set forth in this section shall not apply  
39 in cases where the existing licensee is a restricted location as author-  
40 ized in the preceding sentence, or is any other licensed location that  
41 engages solely in the cashing of checks, drafts or money orders only for  
42 payees that are other than natural persons. For purposes of this  
43 section, such distance shall be measured on a straight line along the  
44 street between the nearest point of the store fronts of the check cash-  
45 ing facilities. The primary business of the licensee, at the location to  
46 be licensed, shall be financial services. The superintendent shall tran-  
47 smit one copy of such license to the applicant and file another in the  
48 office of the department. Notwithstanding the foregoing provisions of  
49 this subdivision, the superintendent, upon application by an applicant  
50 and for good cause shown, may permit a reduction from ten thousand  
51 dollars to not less than five thousand dollars of minimum liquid assets  
52 required for each location.

53 2. Such license shall state the name of the licensee; and if the  
54 licensee is a co-partnership [or], association, OR LIMITED LIABILITY  
55 COMPANY, the names of the members thereof; and if the licensee is a  
56 corporation, the date of its incorporation; and if the business is to be

1 conducted at a specific address, the address at which such business is  
2 to be conducted; and if the business is to be conducted through the use  
3 of a [mobile unit] LIMITED STATION, the New York state registration  
4 number or other identification of such [mobile unit] LIMITED STATION and  
5 the area in which such [mobile unit] LIMITED STATION is authorized to do  
6 business.

7 3. [Such license] ALL LICENSES ISSUED BY THE SUPERINTENDENT shall be  
8 kept conspicuously posted in the place of business of the licensee or,  
9 in the case of a [mobile unit] LIMITED STATION, upon such [mobile unit]  
10 LIMITED STATION. Such license shall not be transferable or assignable.

11 4. Such license shall remain in full force and effect until it is  
12 surrendered by the licensee or revoked or suspended as provided in this  
13 article. IN THE CASE OF A CHANGE OF CONTROL OF A LOCATION OR A BUSINESS  
14 LICENSED HEREUNDER, THE LICENSEE APPROVED TO ACQUIRE THE BUSINESS OR  
15 LOCATION MAY UTILIZE A TRUE COPY OF THE EXISTING LICENSE PENDING THE  
16 ISSUANCE OF A NEW LICENSE BY THE SUPERINTENDENT.

17 5. If the superintendent shall find that the applicant fails to meet  
18 any of the conditions set forth in subdivision one of this section, he  
19 shall not issue such license, and he shall notify the applicant of the  
20 denial. If an application is denied or withdrawn, the superintendent  
21 shall retain the investigation fee to cover the costs of investigating  
22 the application and return the license fee to the applicant.

23 6. The superintendent may refuse to issue a license pursuant to this  
24 article if he shall find that the applicant, or any person who is a  
25 director, officer, partner, agent, employee or substantial stockholder  
26 of the applicant, (a) has been convicted of a crime in any jurisdiction  
27 or (b) is associating or consorting with any person who has, or persons  
28 who have, been convicted of a crime or crimes in any jurisdiction or  
29 jurisdictions; provided, however, that the superintendent shall not  
30 issue such a license if he shall find that the applicant, or any person  
31 who is a director, officer, partner, agent, employee or substantial  
32 stockholder of the applicant, has been convicted of a felony in any  
33 jurisdiction or of a crime which, if committed within this state, would  
34 constitute a felony under the laws thereof. For the purposes of this  
35 article, a person shall be deemed to have been convicted of a crime if  
36 such person shall have pleaded guilty to a charge thereof before a court  
37 or magistrate, or shall have been found guilty thereof by the decision  
38 or judgment of a court or magistrate or by the verdict of a jury, irre-  
39 spective of the pronouncement of sentence or the suspension thereof,  
40 unless such plea of guilty, or such decision, judgment or verdict, shall  
41 have been set aside, reversed or otherwise abrogated by lawful judicial  
42 process or unless the person convicted of the crime shall have received  
43 a pardon therefor from the president of the United States or the gover-  
44 nor or other pardoning authority in the jurisdiction where the  
45 conviction was had, or shall have received a certificate of relief from  
46 disabilities or a certificate of good conduct pursuant to article twen-  
47 ty-three of the correction law to remove the disability under this arti-  
48 cle because of such conviction. The term "substantial stockholder," as  
49 used in this subdivision, shall be deemed to refer to a person owning or  
50 controlling ten per centum or more of the total outstanding stock of the  
51 corporation in which such person is a stockholder. In making a determi-  
52 nation pursuant to this subdivision, the superintendent shall require  
53 fingerprinting of the applicant. Such fingerprints shall be submitted to  
54 the division of criminal justice services for a state criminal history  
55 record check, as defined in subdivision one of section three thousand

thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

7. No license pursuant to this article shall be issued to any applicant to do business at the place specified in the application as the place where the business is to be conducted if, within the twelve months preceding such application, a license to engage in business pursuant to this article at such place shall have been revoked.

S 7. Section 370 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 2 as amended by section 38 of part 0 of chapter 59 of the laws of 2006 and subdivision 3 as amended by chapter 703 of the laws of 2006, is amended to read as follows:

S 370. Restrictions as to place or area of doing business; establishment of stations; change of location. 1. No more than one place of business or one [mobile unit] LIMITED STATION shall be maintained under the same license; provided, however, that more than one license may be issued to the same licensee [upon compliance with the provisions of this article for each new license] AND IF THE SUPERINTENDENT DETERMINES THAT AN EXISTING LICENSEE IS IN GOOD STANDING AND IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, A SUBSEQUENT APPLICATION FOR A SECOND OR MULTIPLE SUPPLEMENTAL LICENSES AT DIFFERENT, SEPARATE AND ADDITIONAL LOCATIONS SHALL BE EXPEDITED BY THE SUPERINTENDENT PROVIDED THE MINIMUM LIQUIDITY REQUIREMENTS AND COMMUNITY NEED CRITERIA SET FORTH IN SECTION THREE HUNDRED SIXTY-NINE OF THIS ARTICLE HAVE BEEN DEMONSTRATED IN THE APPLICATION FOR THE ADDITIONAL LOCATION OR LOCATIONS.

2. Any licensed [cashier of checks] FINANCIAL SERVICES PROVIDER may open and maintain, within this state, one or more limited stations for the purpose of cashing checks, drafts or money orders for the particular group or groups specified in the license authorizing each such station. Such stations shall be licensed pursuant to and be subject to all the provisions of this chapter applicable to licensed cashiers of checks, except that (a) [such station shall not be subject to the distance limitation set forth in subdivision one of section three hundred sixty-nine of this article, (b)] the fee for investigating the application for a station shall be as prescribed pursuant to section eighteen-a of this chapter, and [(c)] (B) where such a station is at the premises of a specified employer for the purpose of cashing checks, drafts and money orders for the employees of such employer, the fees and charges for cashing such checks, drafts or money orders shall not be subject to the limitations of subdivision one of section three hundred seventy-two of this article if such fees and charges are paid by such employer.

3. A licensee may make a written application to the superintendent for leave to change his or her place of business, or in the case of a [mobile unit] LIMITED STATION, the area in which such unit is authorized to be operated, stating the reasons for such proposed change AND IN THE CASE WHERE THE APPLICANT CURRENTLY HOLDS A MASTER LICENSE TO OPERATE A BUSINESS ESTABLISHED UNDER THIS ARTICLE, THE SUPERINTENDENT SHALL STREAMLINE AND REDUCE THE INFORMATION REQUIRED FROM SUCH APPLICANT. Such application may be approved for relocation from a site within three-tenths of a mile of another licensee to another site within three-tenths of a mile of such other licensee provided that such new site is farther from such existing licensee than the site from which permission to relocate is sought. Only in situations in which a licensee seeks to change its place of business due to extraordinary circumstances, as may be determined by the superintendent pursuant to regulations, may the superintendent, in his or her discretion, determine that an application may be approved for relocation from a site within three-tenths of a mile of

1 another licensee to a new site which is closer to such existing licensee  
2 than the site from which permission to relocate is sought. Notwithstand-  
3 ing any other provision of this subdivision, a licensee may relocate  
4 from any location to a location that is within three-tenths of a mile  
5 from another licensee with the written consent of the other licensee. If  
6 the superintendent approves such application he or she shall issue a new  
7 license in duplicate in accordance with the provisions of section three  
8 hundred sixty-nine of this article, stating the new location of such  
9 licensee or, in the case of a [mobile unit] LIMITED STATION, the new  
10 area in which such [mobile unit] LIMITED STATION may be operated.

11 S 8. Section 370-a of the banking law, as added by chapter 142 of the  
12 laws of 1992, subdivision 1 as amended by section 39 of part O of chap-  
13 ter 59 of the laws of 2006, is amended to read as follows:

14 S 370-a. Changes in control. 1. It shall be unlawful except with the  
15 prior approval of the superintendent for any action to be taken which  
16 results in a change of control of the business of a licensee. Prior to  
17 any change of control, the person desirous of acquiring control of the  
18 business of a licensee, IF SUCH PERSON IS NOT ALREADY A LICENSEE UNDER  
19 THIS ARTICLE, shall make written application to the superintendent and  
20 pay an investigation fee as prescribed pursuant to section eighteen-a of  
21 this chapter to the superintendent. The application shall contain such  
22 information as the superintendent, by rule or regulation, may prescribe  
23 as necessary or appropriate, AND IN THE CASE WHERE THE ACQUIRING PERSON  
24 CURRENTLY HOLDS A MASTER LICENSE TO OPERATE A BUSINESS ESTABLISHED UNDER  
25 THIS ARTICLE, AND IN THE CASE OF A LIMITED STATION LICENSE, THE SUPER-  
26 INTENDENT SHALL STREAMLINE AND REDUCE THE INFORMATION REQUIRED FROM SUCH  
27 APPLICANT, for the purpose of making the determination required by  
28 subdivision two of this section.

29 2. The superintendent shall approve or disapprove the proposed change  
30 of control of a licensee in accordance with the provisions of subdivi-  
31 sions one and six of section three hundred sixty-nine of this article.  
32 The superintendent shall approve or disapprove the application in writ-  
33 ing within ninety days after the date the application is filed with the  
34 superintendent.

35 3. For a period of six months from the date of qualification thereof  
36 and for such additional period of time as the superintendent may  
37 prescribe, in writing, the provisions of subdivisions one and two of  
38 this section shall not apply to a transfer of control by operation of  
39 law to the legal representative, as hereinafter defined, of one who has  
40 control of a licensee. Thereafter, such legal representative shall  
41 comply with the provisions of subdivisions one and two of this section.  
42 The provisions of subdivisions one and two of this section shall be  
43 applicable to an application made under such section by a legal repre-  
44 sentative.

45 The term "legal representative", for the purposes of this section,  
46 shall mean one duly appointed by a court of competent jurisdiction to  
47 act as executor, administrator, trustee, committee, conservator or  
48 receiver, including one who succeeds a legal representative and one  
49 acting in an ancillary capacity thereto in accordance with the  
50 provisions of such court appointment.

51 4. As used in this section: (a) the term "person" includes an individ-  
52 ual, partnership, corporation, association, LIMITED LIABILITY COMPANY,  
53 or any other organization, and (b) the term "control" means the  
54 possession, directly or indirectly, of the power to direct or cause the  
55 direction of the management and policies of a licensee, whether through  
56 the ownership of voting stock of such licensee, the ownership of voting

1 stock of any person which possesses such power or otherwise. Control  
2 shall be presumed to exist if any person, directly or indirectly, owns,  
3 controls or holds with power to vote ten per centum or more of the  
4 voting stock of any licensee or of any person which owns, controls or  
5 holds with power to vote ten per centum or more of the voting stock of  
6 any licensee, but no person shall be deemed to control a licensee solely  
7 by reason of being an officer or director of such licensee or person.  
8 The superintendent may in his discretion, upon the application of a  
9 licensee or any person who, directly or indirectly, owns, controls or  
10 holds with power to vote or seeks to own, control or hold with power to  
11 vote any voting stock of such licensee, determine whether or not the  
12 ownership, control or holding of such voting stock constitutes or would  
13 constitute control of such licensee for purposes of this section.

14 S 9. Section 371 of the banking law, as added by chapter 151 of the  
15 laws of 1945, is amended to read as follows:

16 S 371. Regulations. The superintendent is hereby authorized and  
17 empowered to make such rules and regulations, and such specific NECES-  
18 SARY rulings, demands, and findings as he OR SHE may deem necessary for  
19 the proper conduct of the business authorized and licensed under and for  
20 the enforcement of this article, in addition hereto and not inconsistent  
21 herewith.

22 S 10. Section 372 of the banking law, as amended by chapter 151 of the  
23 laws of 1945, the section heading and subdivision 1 as amended and  
24 subdivision 7 as added by chapter 432 of the laws of 2004, subdivisions  
25 2, 3, and 4 as added and subdivisions 5 and 6 as renumbered by chapter  
26 263 of the laws of 1983, and subdivision 6 as added by chapter 485 of  
27 the laws of 1947, is amended to read as follows:

28 S 372. Fees and charges; posting schedule; records and reports. 1. The  
29 superintendent shall, by regulation, establish the maximum fees which  
30 may be charged by licensees for cashing a check, draft, or money order.  
31 No licensee shall charge or collect any sum for cashing a check, draft,  
32 or money order in excess of that established by the superintendent's  
33 regulations; provided, however, that no maximum fee shall apply to the  
34 charging of fees by licensees for the cashing of checks, drafts or money  
35 orders for payees of such checks, drafts or money orders that are other  
36 than natural persons. THE LICENSEE SHALL PAY TO EVERY CUSTOMER TENDERING  
37 ANY CHECK, DRAFT OR MONEY ORDER TO BE CASHED, THE ENTIRE FACE AMOUNT OF  
38 SUCH INSTRUMENT, LESS ANY CHARGES PERMITTED BY THE SUPERINTENDENT, IN  
39 SUCH FORM AND BY SUCH MEANS AS AGREED UPON BY THE CUSTOMER ON THE SAME  
40 DATE UPON WHICH SUCH INSTRUMENT IS PRESENTED.

41 2. The schedule of fees and charges permitted under this section shall  
42 be conspicuously and continuously posted in every location and [mobil  
43 unit] LIMITED STATION licensed under this article. WHENEVER A LICENSEE  
44 HEREUNDER IS AUTHORIZED UNDER THIS ARTICLE TO OFFER OTHER FINANCIAL  
45 SERVICES, THE POSTING AND SIGNAGE REQUIREMENTS THEREUNDER SHALL SUPER-  
46 SEDE OTHER SIGNAGE REQUIREMENTS UNDER THIS ARTICLE.

47 3. No change in fees shall become effective earlier than thirty days  
48 after the superintendent shall notify the majority leader of the senate,  
49 the speaker of the assembly, and the chairmen of both the senate and  
50 assembly committees on banks of his intention to change fees.

51 4. The fees in effect immediately prior to the effective date of this  
52 subdivision shall continue to be the maximum allowable fees until  
53 revised by the superintendent's regulations.

54 5. Each licensee shall keep and use in its business such books,  
55 accounts, and records as the superintendent may require to carry into  
56 effect the provisions of this article and the rules and regulations made



by the superintendent hereunder. Every licensee shall preserve such books, accounts and records for at least two years. A LICENSEE SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS REQUIREMENT IF THE LICENSEE MAINTAINS ALL INFORMATION RELATED TO THE FINANCIAL SERVICES TRANSACTIONS CONDUCTED BY SAID LICENSEE IN ELECTRONIC FORMAT READILY AVAILABLE TO THE SUPERINTENDENT UPON REASONABLE NOTICE.

6. Before a licensee shall deposit with any banking organization, or with any organization engaged in the business of banking, a check, draft or money order cashed by such licensee, the same must be endorsed with the actual name under which such licensee is doing business and must have the words "licensed [cashier of checks] FINANCIAL SERVICES PROVIDER" legibly written or stamped immediately after or below such name.

7. Every licensee shall submit to the superintendent, or such person as the superintendent may designate, such suspicious activity reports or currency transaction reports as are required to be submitted to federal authorities pursuant to provisions of the Bank Secrecy Act (subchapter 11, chapter 53, title 31, United States code) and regulations and administrative orders related thereto, as amended, within the periods of time as required by such act and regulations. A licensee may submit a copy of any such report to the superintendent, or such person as the superintendent may designate, that is filed with such federal authorities. The superintendent may adopt such regulations or require such additional reports as he or she deems necessary to insure the effective enforcement of this subdivision.

S 11. Section 372-a of the banking law, as added by chapter 432 of the laws of 2004, is amended to read as follows:

S 372-a. Superintendent authorized to examine. 1. For the purpose of discovering violations of this article or securing information lawfully required in this section, the superintendent may at any time, and as often as may be determined, either personally or by a person duly designated by the superintendent, investigate the [cashing of checks by licensees] BUSINESS PRACTICES OF A LICENSEE RENDERING FINANCIAL SERVICES AUTHORIZED BY THIS ARTICLE and examine the books, accounts, records, and files used therein of every licensee.

2. For the purpose established in subdivision one of this section, the superintendent and his or her duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such licensees. The superintendent shall have authority to require the attendance of and to examine under oath all persons whose testimony may be required relative to such cashing of checks or such business.

S 12. Subdivisions 1 and 2 of section 373 of the banking law, subdivision 1 as amended by chapter 432 of the laws of 2004 and subdivision 2 as amended by chapter 132 of the laws of 1969, are amended to read as follows:

1. [No licensee shall engage in the business of making loans of money, credit, goods or things or discounting of notes, bills of exchange, checks, or other evidences of debt pursuant to the provisions of article nine of this chapter, nor shall a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks or other evidences of debt be conducted on the same premises where the licensee is conducting business pursuant to the provisions of this article.] A LICENSEE MAY ENGAGE IN THE BUSINESS OF MAKING BUSINESS AND COMMERCIAL LOANS PURSUANT TO THIS ARTICLE PROVIDED THE LICENSEE HAS FIRST OBTAINED A LICENSE FROM THE SUPERINTENDENT PURSUANT TO ARTICLE NINE OF THIS CHAPTER; PROVIDED, HOWEVER, NO LICENSEE SHALL MAKE ANY LOANS TO INDIVIDUALS

1 FOR PERSONAL, FAMILY, HOUSEHOLD OR INVESTMENT PURPOSES. Except as other-  
2 wise provided by regulation of the superintendent, all checks, drafts  
3 and money orders shall be deposited in the licensee's bank account not  
4 later than the first business day following the day on which they were  
5 cashed. No licensee shall at any time cash or advance any moneys on a  
6 post-dated check or draft or engage in the business of transmitting  
7 money or receiving money for transmission; provided, however, that a  
8 licensee may cash a check [payable on the first banking business day  
9 following the date of cashing (a) if such check is drawn by the United  
10 States, the state of New York, or any political subdivision of the state  
11 of New York, or by any department, bureau, agency, authority, instrumen-  
12 tality or officer, acting in his official capacity, of the United States  
13 or of the state of New York or of any political subdivision of the state  
14 of New York, or (b) if such check is a payroll check drawn by an employ-  
15 er to the order of its employee in payment for services performed by  
16 such employee] WITHOUT REGARD TO THE DATE IMPRINTED ON THE CHECK AS LONG  
17 AS THE CHECK IS DEPOSITED IN THE LICENSEE'S BANK ACCOUNT NOT LATER THAN  
18 THE FIRST BUSINESS DAY FOLLOWING THE DAY ON WHICH IT WAS CASHED. No  
19 licensee shall cash any check, draft or money order if the face amount  
20 for which it is drawn is in excess of [fifteen] TWENTY-FIVE thousand  
21 dollars; provided, however, that this restriction shall not apply to the  
22 cashing of checks, drafts or money orders drawn by the United States,  
23 any state thereof or any political subdivision of any such state, or by  
24 any department, bureau, agency, authority, instrumentality or officer,  
25 acting in his official capacity, of the United States, any state thereof  
26 or any political subdivision of any such state, or any banking institu-  
27 tion, or to any check or draft drawn by any insurance company, any  
28 broker or dealer registered with the securities and exchange commission,  
29 or any attorney for the settlement of claims, OR TO ANY CHECK ISSUED AS  
30 AN ADVANCE TO A LAWSUIT OR AS PART OF A STRUCTURED SETTLEMENT, or to any  
31 check which has been certified by the banking institution on which it  
32 has been drawn, OR IF SUCH CHECK IS DRAWN ON A BONA FIDE WORKERS'  
33 COMPENSATION FUND ISSUED BY A THIRD-PARTY PAYOR, OR IF SUCH CHECK IS  
34 DRAWN BY AN EMPLOYER FROM A PENSION OR PROFIT SHARING FUND, OR IF SUCH  
35 CHECK IS DRAWN BY A UNION FROM A PENSION OR BENEFIT FUND; provided  
36 further, however, that any such restriction upon the maximum face amount  
37 that may be cashed by a licensee shall not apply to the cashing of  
38 checks, drafts or money orders by licensees for payees of such checks,  
39 drafts or money orders that are other than natural persons. For purposes  
40 of this subdivision, "banking institution" means any bank, trust compa-  
41 ny, savings bank, savings and loan association or credit union which is  
42 incorporated, chartered or organized under the laws of this state or any  
43 other state or the United States.

44 2. The superintendent may suspend or revoke any license or licenses  
45 issued pursuant to this article if, after notice and a hearing, he shall  
46 find that the licensee (a) has committed any fraud, engaged in any  
47 dishonest activities or made any misrepresentation; or (b) has violated  
48 any provisions of the banking law or any regulation issued pursuant  
49 thereto, or has violated any other law in the course of its or his deal-  
50 ings as a [licensed casher of checks] LICENSEE DELIVERING CHECK CASHING  
51 AND RELATED FINANCIAL SERVICES TO THE PUBLIC PURSUANT TO THIS ARTICLE;  
52 or (c) has made a false statement in the application for such license or  
53 failed to give a true reply to a question in such application; or (d)  
54 has demonstrated his or its incompetency or untrustworthiness to act as  
55 a [licensed casher of checks] LICENSEE DELIVERING FINANCIAL SERVICES TO  
56 THE PUBLIC PURSUANT TO THIS ARTICLE; or (e) is not doing sufficient

1 business pursuant to this article to justify the continuance of the  
2 license, or if he shall find that any ground or grounds exist which  
3 would require or warrant the refusal of an application for the issuance  
4 of the license if such an application were then before him. Such a hear-  
5 ing shall be held in the manner and upon such notice as may be  
6 prescribed by the superintendent. Pending an investigation or a hearing  
7 for the suspension or revocation of any license or licenses issued  
8 pursuant to this article, the superintendent may temporarily suspend  
9 such license or licenses for a period not to exceed ninety days,  
10 provided the superintendent shall find that such a temporary suspension  
11 is in the public interest.

12 S 13. The banking law is amended by adding a new section 373-a to read  
13 as follows:

14 S 373-A. REPORT OF LENDING ACTIVITY. 1. ANY LICENSEE WHO ISSUES BUSI-  
15 NESS OR COMMERCIAL LOANS PURSUANT TO THE AUTHORITY GRANTED IN SECTION  
16 THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE SHALL SUBMIT INFORMATION TO  
17 THE SUPERINTENDENT ANNUALLY BEGINNING JANUARY FIRST, TWO THOUSAND EIGH-  
18 TEEN REGARDING THE FOLLOWING:

19 (A) THE NUMBER OF LOANS ISSUED THE PREVIOUS YEAR;

20 (B) THE DEFAULT RATE, IF ANY, WITH RESPECT TO SUCH LOANS;

21 (C) THE AVERAGE COST OF SUCH LOANS, INCLUDING FEES AND INTEREST RATES  
22 CHARGED; AND

23 (D) SUCH OTHER INFORMATION AS THE SUPERINTENDENT DEEMS RELEVANT.

24 2. THE SUPERINTENDENT SHALL THEREAFTER ISSUE A REPORT TO THE GOVERNOR,  
25 TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY ON APRIL  
26 FIRST, TWO THOUSAND EIGHTEEN AND ANNUALLY THEREAFTER COMPILING AND  
27 ANALYZING THE INFORMATION RECEIVED PURSUANT TO SUBDIVISION ONE OF THIS  
28 SECTION.

29 S 14. This act shall take effect on the one hundred eightieth day  
30 after it shall have become a law; provided, however, that:

31 (a) effective immediately, any rules and regulations necessary to  
32 implement the provisions of this act on its effective date shall be  
33 added, amended and/or repealed on or before such date;

34 (b) the amendments to section 373 of the banking law made by section  
35 twelve of this act shall expire and be deemed repealed on June 30, 2021;

36 (c) section 373-a of the banking law as added by section thirteen of  
37 this act shall expire and be deemed repealed on June 30, 2021; and

38 (d) any contract, instrument, argument or other written obligation  
39 entered into by a financial service provider authorized under section  
40 373 of the banking law prior to June 30, 2021 shall be deemed valid and  
41 enforceable after such date.