

6105

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 16, 2015

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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 inter-  
24    est 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.