

9634

I N   A S S E M B L Y

March 23, 2016

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

AN ACT to amend the banking law and the penal law, in relation to enact-  
ing the "community financial services access and modernization act of  
2016"; and to amend chapter 591 of the laws of 2001 amending the bank-  
ing law relating to limiting the check cashing exemption for national  
banks and other regulated entities, in relation to the effectiveness  
thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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.

LBD14451-01-6

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 BY THE LAW  
12 OF THE STATE OF NEW YORK OFFERED BY A LICENSEE UNDER THIS ARTICLE TO ITS  
13 CUSTOMERS IN COLLABORATION WITH A BANK, CREDIT UNION, OR OTHER FINANCIAL  
14 INSTITUTION OR LICENSEE AUTHORIZED TO DO BUSINESS IN THIS STATE BY THIS  
15 CHAPTER OR BY FEDERAL LAW.

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

19     (B) MONEY TRANSMISSION SERVICES AS DEFINED IN ARTICLE THIRTEEN-B OF  
20 THIS CHAPTER, PROVIDED, HOWEVER, A LICENSED FINANCIAL SERVICES PROVIDER  
21 OFFERING MONEY TRANSMISSION PURSUANT TO ARTICLE THIRTEEN-B OF THIS CHAP-  
22 TER, OTHER THAN AS AN AGENT OF A LICENSEE, SHALL FIRST OBTAIN A LICENSE  
23 UNDER THAT ARTICLE,

24     (C) BILL PAYMENT SERVICES,

25     (D) SUCH OTHER LOANS AND/OR CREDIT PRODUCTS AS PROVIDED FOR HEREIN OR  
26 AS PERMITTED BY STATE LAW,

27     (E) THE SALE OF PREPAID DEBIT CARDS,

28     (F) CONDUIT SERVICES AS DEFINED IN THIS ARTICLE, AND

29     (G) ANY OTHER FINANCIAL SERVICE PERMITTED IN THIS STATE.

30     7. THE TERM "MASTER LICENSE" SHALL MEAN AN ORIGINAL LICENSE ISSUED BY  
31 THE SUPERINTENDENT THAT AUTHORIZES A PERSON TO ENGAGE IN THE BUSINESS OF  
32 CASHING OF CHECKS AND RELATED FINANCIAL SERVICES.

33     8. THE TERM "SUPPLEMENTAL LICENSE" SHALL MEAN A LICENSE ISSUED BY THE  
34 SUPERINTENDENT THAT AUTHORIZES A PERSON HAVING A MASTER LICENSE TO  
35 ENGAGE IN THE BUSINESS OF CASHING OF CHECKS AND RELATED FINANCIAL  
36 SERVICES AT BRANCH LOCATIONS.

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

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

45     2. Application for such license shall be in writing, under oath, and  
46 in the form prescribed by the superintendent, and shall contain the  
47 name, and the address both of the residence and place of business, of  
48 the applicant, and if the applicant is a co-partnership [or], associ-  
49 ation OR LIMITED LIABILITY COMPANY, of every member thereof, and if a  
50 corporation, of each officer and director thereof; also, if the business  
51 is to be conducted at a specific address, the address at which the busi-  
52 ness is to be conducted, and if the business is to be conducted from a  
53 [mobile unit] LIMITED STATION, the New York state registration number or  
54 other identification of such [mobile unit] LIMITED STATION and the area  
55 in which the applicant proposes to operate such [mobile unit] LIMITED

1 STATION; and also such further information as the superintendent may  
2 require.

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

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

34 S 6. Section 369 of the banking law, as amended by chapter 151 of the  
35 laws of 1945, subdivision 1 as amended by chapter 233 of the laws of  
36 2005, subdivisions 4 and 5 as amended by chapter 132 of the laws of  
37 1969, subdivision 6 as amended by chapter 164 of the laws of 2003, para-  
38 graph (b) of subdivision 6 as amended by section 6 of part LL of chapter  
39 56 of the laws of 2010, and subdivision 7 as added by chapter 485 of the  
40 laws of 1947, is amended to read as follows:

41 S 369. Conditions precedent to issuing license; issuance and filing of  
42 license; posting license. 1. If the superintendent shall find that the  
43 financial responsibility, experience, character, and general fitness of  
44 the applicant, and of the members thereof if the applicant be a co-part-  
45 nership [or], association OR LIMITED LIABILITY COMPANY, and of the offi-  
46 cers and directors thereof if the applicant be a corporation, are such  
47 as to command the confidence of the community and to warrant belief that  
48 the business will be operated honestly, fairly, and efficiently within  
49 the purposes of this article, and if the superintendent shall find that  
50 the granting of such application will promote the convenience and advan-  
51 tage of the area in which such business is to be conducted, and if the  
52 superintendent shall find that the applicant has available for the oper-  
53 ation of such business for each location and for each [mobile unit]  
54 LIMITED STATION specified in the application liquid assets of at least  
55 ten thousand dollars, the superintendent shall thereupon execute a  
56 MASTER license AND IF APPLICABLE ONE OR MORE SUPPLEMENTAL LICENSES in

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

46 2. Such license shall state the name of the licensee; and if the  
47 licensee is a co-partnership [or], association, OR LIMITED LIABILITY  
48 COMPANY, the names of the members thereof; and if the licensee is a  
49 corporation, the date of its incorporation; and if the business is to be  
50 conducted at a specific address, the address at which such business is  
51 to be conducted; and if the business is to be conducted through the use  
52 of a [mobile unit] LIMITED STATION, the New York state registration  
53 number or other identification of such [mobile unit] LIMITED STATION and  
54 the area in which such mobile unit is authorized to do business.

55 3. [Such license] ALL LICENSES ISSUED BY THE SUPERINTENDENT shall be  
56 kept conspicuously posted in the place of business of the licensee or,

1 in the case of a [mobile unit] LIMITED STATION, upon such [mobile unit]  
2 LIMITED STATION. Such license shall not be transferable or assignable.

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

9 5. If the superintendent shall find that the applicant fails to meet  
10 any of the conditions set forth in subdivision one of this section, he  
11 shall not issue such license, and he shall notify the applicant of the  
12 denial. If an application is denied or withdrawn, the superintendent  
13 shall retain the investigation fee to cover the costs of investigating  
14 the application and return the license fee to the applicant.

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

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

55 S 7. Section 370 of the banking law, as amended by chapter 151 of the  
56 laws of 1945, subdivision 2 as amended by section 38 of part 0 of chap-

ter 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 another licensee to a new site which is closer to such existing licensee than the site from which permission to relocate is sought. Notwithstanding any other provision of this subdivision, a licensee may relocate from any location to a location that is within three-tenths of a mile from another licensee with the written consent of the other licensee. If the superintendent approves such application he or she shall issue a new license in duplicate in accordance with the provisions of section three hundred sixty-nine of this article, stating the new location of such

licensee or, in the case of a [mobile unit] LIMITED STATION, the new area in which such [mobile unit] LIMITED STATION may be operated.

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

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

2. The superintendent shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of subdivisions one and six of section three hundred sixty-nine of this article. The superintendent shall approve or disapprove the application in writing within ninety days after the date the application is filed with the superintendent.

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

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

4. As used in this section: (a) the term "person" includes an individual, partnership, corporation, association, LIMITED LIABILITY COMPANY, or any other organization, and (b) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a licensee, whether through the ownership of voting stock of such licensee, the ownership of voting stock of any person which possesses such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum or more of the voting stock of any licensee or of any person which owns, controls or holds with power to vote ten per centum or more of the voting stock of any licensee, but no person shall be deemed to control a licensee solely by reason of being an officer or director of such licensee or person. The superintendent may in his discretion, upon the application of a

licensee or any person who, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such licensee, determine whether or not the ownership, control or holding of such voting stock constitutes or would constitute control of such licensee for purposes of this section.

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

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

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

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

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

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

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

5. Each licensee shall keep and use in its business such books, accounts, and records as the superintendent may require to carry into 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 A COMPUTERIZED SYSTEM THAT PRESERVES ALL INFORMATION RELATED TO THE FINANCIAL SERVICES TRANSACTIONS CONDUCTED BY SAID LICENSEE.

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



1 the actual name under which such licensee is doing business and must  
2 have the words "licensed [cashier of checks] FINANCIAL SERVICES PROVIDER"  
3 legibly written or stamped immediately after or below such name.

4 7. Every licensee shall submit to the superintendent, or such person  
5 as the superintendent may designate, such suspicious activity reports or  
6 currency transaction reports as are required to be submitted to federal  
7 authorities pursuant to provisions of the Bank Secrecy Act (subchapter  
8 11, chapter 53, title 31, United States code) and regulations and admin-  
9 istrative orders related thereto, as amended, within the periods of time  
10 as required by such act and regulations. A licensee may submit a copy of  
11 any such report to the superintendent, or such person as the superinten-  
12 dent may designate, that is filed with such federal authorities. The  
13 superintendent may adopt such regulations or require such additional  
14 reports as he or she deems necessary to insure the effective enforcement  
15 of this subdivision.

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

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

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

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

37 1. [No licensee shall engage in the business of making loans of money,  
38 credit, goods or things or discounting of notes, bills of exchange,  
39 checks, or other evidences of debt pursuant to the provisions of article  
40 nine of this chapter, nor shall a loan business or the negotiation of  
41 loans or the discounting of notes, bills of exchange, checks or other  
42 evidences of debt be conducted on the same premises where the licensee  
43 is conducting business pursuant to the provisions of this article.] A  
44 LICENSEE MAY ENGAGE IN THE BUSINESS OF MAKING LOANS PURSUANT TO ARTICLE  
45 NINE OF THIS CHAPTER, OR AS OTHERWISE PERMITTED BY STATE LAW, PROVIDED  
46 THE LICENSEE HAS FIRST OBTAINED A LICENSE FROM THE SUPERINTENDENT PURSU-  
47 ANT TO ARTICLE NINE OF THIS CHAPTER. Except as otherwise provided by  
48 regulation of the superintendent, all checks, drafts and money orders  
49 shall be deposited in the licensee's bank account not later than the  
50 first business day following the day on which they were cashed. No  
51 licensee shall at any time cash or advance any moneys on a post-dated  
52 check or draft or engage in the business of transmitting money or  
53 receiving money for transmission; provided, however, that a licensee may  
54 cash a check [payable on the first banking business day following the  
55 date of cashing (a) if such check is drawn by the United States, the  
56 state of New York, or any political subdivision of the state of New

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

33 2. The superintendent may suspend or revoke any license or licenses  
34 issued pursuant to this article if, after notice and a hearing, he shall  
35 find that the licensee (a) has committed any fraud, engaged in any  
36 dishonest activities or made any misrepresentation; or (b) has violated  
37 any provisions of the banking law or any regulation issued pursuant  
38 thereto, or has violated any other law in the course of its or his deal-  
39 ings as a [licensed casher of checks] LICENSEE DELIVERING CHECK CASHING  
40 AND RELATED FINANCIAL SERVICES TO THE PUBLIC PURSUANT TO THIS ARTICLE;  
41 or (c) has made a false statement in the application for such license or  
42 failed to give a true reply to a question in such application; or (d)  
43 has demonstrated his or its incompetency or untrustworthiness to act as  
44 a [licensed casher of checks] LICENSEE DELIVERING FINANCIAL SERVICES TO  
45 THE PUBLIC PURSUANT TO THIS ARTICLE; or (e) is not doing sufficient  
46 business pursuant to this article to justify the continuance of the  
47 license, or if he shall find that any ground or grounds exist which  
48 would require or warrant the refusal of an application for the issuance  
49 of the license if such an application were then before him. Such a hear-  
50 ing shall be held in the manner and upon such notice as may be  
51 prescribed by the superintendent. Pending an investigation or a hearing  
52 for the suspension or revocation of any license or licenses issued  
53 pursuant to this article, the superintendent may temporarily suspend  
54 such license or licenses for a period not to exceed ninety days,  
55 provided the superintendent shall find that such a temporary suspension  
56 is in the public interest.

1 S 13. Subdivision 5 of section 373 of the banking law, as added by  
2 chapter 235 of the laws of 2008, is amended to read as follows:

3 5. Notwithstanding the provisions of subdivision four of this section,  
4 any person, partnership, association or corporation and the several  
5 members, officers, directors, agents and employees thereof who shall  
6 violate the provisions of subdivision one of section three hundred  
7 sixty-seven of this article shall be guilty of a class [A misdemeanor] E  
8 FELONY AND SHALL BE PUNISHABLE BY A FINE OF TWO THOUSAND FIVE HUNDRED  
9 DOLLARS FOR EACH TRANSACTION MADE IN VIOLATION OF SUCH SUBDIVISION.

10 S 14. Subdivision 1 of section 374 of the banking law, as amended by  
11 chapter 582 of the laws of 2000, is amended to read as follows:

12 1. The provisions of this article shall not apply when checks, drafts  
13 or money orders are cashed, other than by a licensee, without a consid-  
14 eration or charge; nor when checks, drafts or money orders are cashed,  
15 other than by a licensee, as an incident to the conduct of any other  
16 lawful business where not more than one dollar is charged for cashing  
17 each check, draft or money order PROVIDED, HOWEVER, IN THE CASE OF A  
18 RETAIL BUSINESS ESTABLISHMENT, THE PROCEEDS FROM THE CASHED CHECK, DRAFT  
19 OR MONEY ORDER IS EXPENDED ON A CONTEMPORANEOUS PURCHASE AT THE RETAIL  
20 BUSINESS CASHING SUCH INSTRUMENT; nor shall the provisions of this arti-  
21 cle apply to any national bank, federal reserve bank, or to any person,  
22 partnership, association, corporation or other organization doing busi-  
23 ness under or pursuant to the provisions of this chapter, except a  
24 licensee under this article.

25 (A) ANY LAWFUL BUSINESS PERMITTED TO CASH CHECKS, DRAFTS OR MONEY  
26 ORDERS AS AN INCIDENT TO THE CONDUCT OF ITS BUSINESS AND AS PERMITTED  
27 UNDER SECTION ONE OF THIS ARTICLE, SHALL BE PROHIBITED FROM PROMOTING  
28 THAT PRACTICE IN ANY ADVERTISING FOR SUCH BUSINESS AND ANY EXTERIOR  
29 SIGNAGE INFORMING THE GENERAL PUBLIC OF THE CHECK, DRAFT OR MONEY ORDER  
30 CASHING SERVICE SHALL ALSO BE PROHIBITED.

31 (B) ANY LAWFUL BUSINESS PERMITTED TO CASH CHECKS, DRAFTS OR MONEY  
32 ORDERS AS AN INCIDENT TO THE CONDUCT OF ITS BUSINESS AND AS PERMITTED  
33 UNDER SECTION ONE OF THIS ARTICLE, SHALL UPON THE DEMAND OF THE SUPER-  
34 INTENDENT OR AT LEAST SEMI-ANNUALLY, SUBMIT PROOF TO THE SUPERINTENDENT  
35 OF THEIR COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE PROVISIONS OF  
36 THIS ARTICLE IN THE PROVISION OF SERVICES TO THE PUBLIC AND OF ITS  
37 COMPLIANCE WITH THE PROVISIONS OF ARTICLE 31 OF THE UNITED STATES CODE.

38 S 15. Section 2 of chapter 591 of the laws of 2001, amending the bank-  
39 ing law relating to limiting the check cashing exemption for national  
40 banks and other regulated entities, as amended by chapter 33 of the laws  
41 of 2013, is amended to read as follows:

42 S 2. This act shall take effect immediately [and shall expire and be  
43 deemed repealed August 1, 2018].

44 S 16. The first undesignated paragraph of section 170.05 of the penal  
45 law is amended to read as follows:

46 A person is guilty of forgery in the third degree when, with intent to  
47 defraud, deceive or injure another, he falsely makes, completes or  
48 alters a written instrument, INCLUDING BUT NOT LIMITED TO CHECKS, DRAFTS  
49 AND MONEY ORDERS.

50 S 17. Subdivision 3 of section 170.10 of the penal law is amended to  
51 read as follows:

52 3. A written instrument, INCLUDING BUT NOT LIMITED TO CHECKS, DRAFTS  
53 AND MONEY ORDERS officially issued or created by a public office, public  
54 servant or governmental instrumentality; or

55 S 18. The first undesignated paragraph of section 170.20 of the penal  
56 law is amended to read as follows:

1 A person is guilty of criminal possession of a forged instrument in  
2 the third degree when, with knowledge that it is forged and with intent  
3 to defraud, deceive or injure another, he utters or possesses a forged  
4 instrument, INCLUDING BUT NOT LIMITED TO, CHECKS, DRAFTS AND MONEY  
5 ORDERS.  
6 S 19. This act shall take effect on the one hundred eightieth day  
7 after it shall have become a law; provided, however, that effective  
8 immediately, any rules and regulations necessary to implement the  
9 provisions of this act on its effective date shall be added, amended  
10 and/or repealed on or before such date.