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I N A S S E M B L Y

March 23, 2016

Introduced by M. of A. RODRIGUEZ, ARROYO, BENEDETTO, PICHARDO, PERRY, LINARES, CRESPO, HYNDMAN, RIVERA, DILAN, TENNEY, SEPULVEDA, JEAN-PIERRE, WEPRIN -- Multi-Sponsored by -- M. of A. ABBATE, FARRELL -- read once and referred 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

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

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1 licensed by the superintendent of financial services to engage in busi-
2 ness pursuant to the provisions of this article.

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

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

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

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

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

19 (B) ACCOUNT ACCESS SERVICES;

20 (C) BILL PAYMENT SERVICES; AND

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

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

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

31 (C) BILL PAYMENT SERVICES,

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

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

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

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

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

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

55 2. Application for such license shall be in writing, under oath, and
56 in the form prescribed by the superintendent, and shall contain the

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

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

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

43 S 6. Section 369 of the banking law, as amended by chapter 151 of the
44 laws of 1945, subdivision 1 as amended by chapter 233 of the laws of
45 2005, subdivisions 4 and 5 as amended by chapter 132 of the laws of
46 1969, subdivision 6 as amended by chapter 164 of the laws of 2003, para-
47 graph (b) of subdivision 6 as amended by section 6 of part LL of chapter
48 56 of the laws of 2010, and subdivision 7 as added by chapter 485 of the
49 laws of 1947, is amended to read as follows:

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

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

48 2. Such license shall state the name of the licensee; and if the
49 licensee is a co-partnership [or], association, OR LIMITED LIABILITY

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

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

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

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

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

1 record check, as defined in subdivision one of section three thousand
2 thirty-five of the education law, and may be submitted to the federal
3 bureau of investigation for a national criminal history record check.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 5. Each licensee shall keep and use in its business such books,
56 accounts, and records as the superintendent may require to carry into

1 effect the provisions of this article and the rules and regulations made
2 by the superintendent hereunder. Every licensee shall preserve such
3 books, accounts and records for at least two years. A LICENSEE SHALL BE
4 DEEMED TO BE IN COMPLIANCE WITH THIS REQUIREMENT IF THE LICENSEE MAIN-
5 TAINS ALL INFORMATION RELATED TO THE FINANCIAL SERVICES TRANSACTIONS
6 CONDUCTED BY SAID LICENSEE IN ELECTRONIC FORMAT READILY AVAILABLE TO THE
7 SUPERINTENDENT UPON REASONABLE NOTICE.

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

14 7. Every licensee shall submit to the superintendent, or such person
15 as the superintendent may designate, such suspicious activity reports or
16 currency transaction reports as are required to be submitted to federal
17 authorities pursuant to provisions of the Bank Secrecy Act (subchapter
18 11, chapter 53, title 31, United States code) and regulations and admin-
19 istrative orders related thereto, as amended, within the periods of time
20 as required by such act and regulations. A licensee may submit a copy of
21 any such report to the superintendent, or such person as the superinten-
22 dent may designate, that is filed with such federal authorities. The
23 superintendent may adopt such regulations or require such additional
24 reports as he or she deems necessary to insure the effective enforcement
25 of this subdivision.

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

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

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

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

47 1. [No licensee shall engage in the business of making loans of money,
48 credit, goods or things or discounting of notes, bills of exchange,
49 checks, or other evidences of debt pursuant to the provisions of article
50 nine of this chapter, nor shall a loan business or the negotiation of
51 loans or the discounting of notes, bills of exchange, checks or other
52 evidences of debt be conducted on the same premises where the licensee
53 is conducting business pursuant to the provisions of this article.] A
54 LICENSEE MAY ENGAGE IN THE BUSINESS OF MAKING BUSINESS AND COMMERCIAL
55 LOANS PURSUANT TO THIS ARTICLE PROVIDED THE LICENSEE HAS FIRST OBTAINED
56 A LICENSE FROM THE SUPERINTENDENT PURSUANT TO ARTICLE NINE OF THIS CHAP-

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

45 2. The superintendent may suspend or revoke any license or licenses
46 issued pursuant to this article if, after notice and a hearing, he shall
47 find that the licensee (a) has committed any fraud, engaged in any
48 dishonest activities or made any misrepresentation; or (b) has violated
49 any provisions of the banking law or any regulation issued pursuant
50 thereto, or has violated any other law in the course of its or his deal-
51 ings as a [licensed casher of checks] LICENSEE DELIVERING CHECK CASHING
52 AND RELATED FINANCIAL SERVICES TO THE PUBLIC PURSUANT TO THIS ARTICLE;
53 or (c) has made a false statement in the application for such license or
54 failed to give a true reply to a question in such application; or (d)
55 has demonstrated his or its incompetency or untrustworthiness to act as
56 a [licensed casher of checks] LICENSEE DELIVERING FINANCIAL SERVICES TO

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

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

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

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

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

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

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

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

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

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

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

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

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