

5148--A

Cal. No. 670

2015-2016 Regular Sessions

I N   S E N A T E

May 5, 2015

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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

32 S 2. This act shall take effect immediately.