

# STATE OF NEW YORK

3759

2017-2018 Regular Sessions

## IN SENATE

January 26, 2017

Introduced by Sens. HAMILTON, SAVINO -- read twice and ordered printed,  
and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to retail instalment  
contracts and transmitters of money

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Subdivisions 6-a and 6-b of section 491 of the banking  
2 law, subdivision 6-a as amended by chapter 289 of the laws of 1962 and  
3 subdivision 6-b as added by chapter 358 of the laws of 1958, are amended  
4 to read as follows:

5 6-a. "Retail instalment obligation" or "obligation" means an agree-  
6 ment, entered into in this state, pursuant to which the buyer promises  
7 to pay, in instalments, the time sale price or prices of goods and/or  
8 services, or any part thereof. The term does not include [~~(a)~~] a retail  
9 instalment contract[~~, (b)~~] or a retail instalment credit agreement [~~or~~  
10 ~~(c) an obligation which is intended to be and is ultimately insured or~~  
11 ~~guaranteed under title three of the act of Congress entitled "Service-~~  
12 ~~men's Readjustment Act of 1944"~~]. The term includes such an agreement  
13 wherever entered into if executed by the buyer in this state and if  
14 solicited in person by a salesperson or other person acting on his or  
15 her own behalf or that of the seller.

16 6-b. "Retail instalment credit agreement" or "credit agreement" means  
17 an agreement entered into in this state, pursuant to which the buyer  
18 promises to pay, in instalments, his or her outstanding indebtedness  
19 from time to time to a retail seller, not evidenced by a retail instal-  
20 ment contract or obligation, for one or more items of goods or services,  
21 whenever purchased or obtained, which provides for a service charge and  
22 under which instalment payments apply to his or her outstanding indebt-  
23 edness from time to time. The term includes such an agreement wherever  
24 entered into if executed by the buyer in this state and if solicited in

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

LBD08421-01-7

1 person by a salesperson or other person acting on his or her own behalf  
2 or that of the seller.

3 § 2. Subdivision 1 of section 641 of the banking law, as amended by  
4 chapter 677 of the laws of 2004, is amended to read as follows:

5 1. No person shall engage in this state in the business of selling or  
6 issuing checks, or engage in the business of receiving money for trans-  
7 mission or transmitting the same, without a license therefor obtained  
8 from the superintendent as provided in this article, nor shall any  
9 person engage in such business as an agent, except as an agent of a  
10 licensee or as agent of a payee; provided, however, that nothing in this  
11 article shall apply to a bank, trust company, private banker, foreign  
12 banking corporation licensed pursuant to article two of this chapter or  
13 foreign banking company authorized to operate pursuant to the Interna-  
14 tional Banking Act of 1978 (12 USC 3101 et seq.), as amended, savings  
15 bank, savings and loan association, an investment company, a national  
16 banking association, federal reserve bank, corporation organized under  
17 the provisions of section twenty-five-a of an act of congress entitled  
18 the "Federal Reserve Act", federal savings bank, federal savings and  
19 loan association or state or federal credit union or out-of-state state  
20 bank. A person engages in this state in the business of selling or  
21 issuing checks or receiving money for transmission or transmitting the  
22 same if such person induces another person who is a resident of, or  
23 located in, this state to enter into a transaction by solicitation in or  
24 into this state by any means, including but not limited to, mail, elec-  
25 tronic mail, telephone, radio, television, the internet or any other  
26 electronic means.

27 § 3. This act shall take effect immediately.