STATE OF NEW YORK

5920

2017-2018 Regular Sessions

IN SENATE

May 5, 2017

Introduced by Sen. 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 enacting the "community financial services access and modernization act of 2017"; 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:

Section 1. Short title. This act shall be known as and may be cited as the "community financial services access and modernization act of 2017".

§ 2. Paragraph (b) of subdivision 5 of section 18-a of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(b) two thousand dollars when the application relates to the licensing of an additional location or change of location or the licensing of a [~~mobile unit~~] **limited station** of a licensed [~~casher of checks~~] **financial services provider**; or

§ 3. Section 366 of the banking law, as amended by chapter 49 of the laws of 1961, subdivision 1 as amended by chapter 849 of the laws of 1964 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, subdivisions 2 and 3 as renumbered by chapter 132 of the laws of 1969, is amended to read as follows:

§ 366. Definitions. When used in this article. 1. The term "licensed [~~casher of checks~~] **financial services provider**" means any [~~individual, partnership, unincorporated association or corporation~~] **person** duly licensed by the superintendent of financial services to engage in business pursuant to the provisions of this article.

2. The term "licensee" means a **person** licensed [~~casher of checks, drafts and/or money orders~~] **to provide financial services regulated by this article**.

3. The term [~~"mobile unit"~~] **"limited station"** means any vehicle or other movable means from which the business of [~~cashing checks, drafts~~

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

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~~or money orders~~] providing financial services regulated by this article is to be conducted.

4. The term "person" means any individual or other legal entity, including any corporation, partnership, association or limited liability company.

5. The term "financial services" means offering or providing any of the following financial products or services: (a) the cashing of checks, drafts and/or money orders,

(b) money transmission services as defined in article thirteen-B of this chapter, provided, however, a licensed financial services provider offering money transmission pursuant to article thirteen-B of this chapter, other than as an agent of a licensee, shall first obtain a license under that article,

(c) bill payment services,

(d) the sale of prepaid debit cards, and

(e) the dispensing of mass transit fare cards, or such other medium or mechanism for the dispensing of mass transit fares.

6. The term "master license" shall mean an original license issued by the superintendent that authorizes a person to engage in the business of cashing of checks and related financial services, and in the case of a licensee who has multiple licensed business locations at the time of the effective date of this subdivision, the initial longest site continuously licensed under this article.

7. The term "supplemental license" shall mean a license issued by the superintendent that authorizes a person having a master license to engage in the business of cashing of checks and related financial services at branch locations, and in the case of a licensee who has multiple licensed business locations at the time of the effective date of this subdivision, any license issued to an existing licensee after the license for the original site.

§ 4. Section 367 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 3 as amended by section 7 of part D-1 of chapter 109 of the laws of 2006, subdivision 4 as amended by chapter 96 of the laws of 1981, is amended to read as follows:

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

2. Application for such license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the name, and the address both of the residence and place of business, of the applicant, and if the applicant is a co-partnership [~~or~~], association or limited liability company, of every member thereof, and if a corporation, of each officer and director thereof; also, if the business is to be conducted at a specific address, the address at which the business is to be conducted, and if the business is to be conducted from a [~~mobile unit~~] limited station, the New York state registration number or other identification of such [~~mobile unit~~] limited station and the area in which the applicant proposes to operate such [~~mobile unit~~] limited station; and also such further information as the superintendent may require.

3. Such applicant at the time of making such application shall pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for investigating the application. An application for a master license shall be in writing, under oath, and in the form prescribed by the superintendent and shall contain such information as

the superintendent may require by regulation. The application shall set forth all of the locations at which the applicant seeks to conduct business hereunder. At the time of making the application for a master license, an existing licensee under this article shall pay to the superintendent the sum of two hundred fifty dollars for each proposed location as a fee for investigating the application. An applicant that does not currently hold a license under this article at the time of application shall pay to the superintendent an application fee as provided in this chapter for initial applications. Any licensee requesting a change of address, shall at the time of making such request, pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for investigating the new address; provided, however, that the superintendent may, in his or her discretion, waive such investigation fee if warranted, and provided further, that no fee shall be payable for the relocation of a limited station.

4. Every applicant shall prove, in form satisfactory to the superintendent that he or it has available for the operation of such business, for each location and for each [~~mobile unit~~] **limited station** specified in the application, liquid assets of at least ten thousand dollars, and every licensee shall continuously maintain for the operation of such business for each location and for each [~~mobile unit~~] **limited station** liquid assets of at least ten thousand dollars. Notwithstanding the foregoing provisions of this subdivision, the superintendent, upon application by an applicant and for good cause shown, may permit a reduction from ten thousand dollars to not less than five thousand dollars of minimum liquid assets required for each location.

§ 5. Section 369 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 1 as amended by chapter 233 of the laws of 2005, subdivisions 4 and 5 as amended by chapter 132 of the laws of 1969, subdivision 6 as amended by chapter 164 of the laws of 2003, paragraph (b) of subdivision 6 as amended by section 6 of part LL of chapter 56 of the laws of 2010, and subdivision 7 as added by chapter 485 of the laws of 1947, is amended to read as follows:

§ 369. Conditions precedent to issuing license; issuance and filing of license; posting license. 1. If the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership [~~or~~]**,** association **or limited liability company**, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, and if the superintendent shall find that 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 superintendent shall find that the applicant has available for the operation of such business for each location and for each [~~mobile unit~~] **limited station** specified in the application liquid assets of at least ten thousand dollars, the superintendent shall thereupon execute a **master** license **and if applicable one or more supplemental licenses** in duplicate to permit the [~~cashing of checks, drafts and money orders~~] **delivery of financial services** in accordance with the provisions of this article at the location **or locations** or in the area **or areas** specified in such application. In finding whether the application will promote the convenience and advantage to the public, the superintendent shall determine whether there is a community need for a new licensee in the proposed area **or areas** to be served. No license shall be issued to an applicant for a license, at a location to be licensed which is closer than one thousand five hundred eighty-four feet (three-tenths of a mile) from an existing licensee, except with the written consent of such existing licensee or pursuant to subdivision three of section three hundred seventy of this article, subject to any restriction or condition as the superintendent may promulgate by regulation; provided, however, the superintendent may permit a location to be licensed that is closer than three-tenths of a mile from an existing licensee provided such applicant engages in the cashing of checks, drafts or money orders only for payees of such checks, drafts or money orders that are other than natural persons at the location to be licensed and such applicant was engaged in the cashing of such checks, drafts or money orders for payees that are other than natural persons at such location on or before the fourteenth day of July, two thousand four, and provided further that upon licensing any such location by the superintendent, such license as it pertains solely to such location shall not be affected thereafter by any change of control of such license pursuant to section three hundred seventy-a of this article, provided that the licensee continues thereafter to engage at that location in the cashing of checks, drafts or money orders only for payees that are other than natural persons and provided further that such license shall bear a legend stating that such location is restricted to the cashing of checks, drafts or money orders only for payees that are other than natural persons. The three-tenths of a mile distance requirement as set forth in this section shall not apply in cases where the existing licensee is a restricted location as authorized in the preceding sentence, or is any other licensed location that engages solely in the cashing of checks, drafts or money orders only for payees that are other than natural persons. For purposes of this section, such distance shall be measured on a straight line along the street between the nearest point of the store fronts of the check cashing facilities. The primary business of the licensee, at the location to be licensed, shall be financial services. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the department. Notwithstanding the foregoing provisions of this subdivision, the superintendent, upon application by an applicant and for good cause shown, may permit a reduction from ten thousand dollars to not less than five thousand dollars of minimum liquid assets required for each location.

2. Such license shall state the name of the licensee; and if the licensee is a co-partnership [~~or~~]**,** association, **or limited liability company,** the names of the members thereof; and if the licensee is a corporation, the date of its incorporation; and if the business is to be conducted at a specific address, the address at which such business is to be conducted; and if the business is to be conducted through the use of a [~~mobile unit~~] **limited station**, the New York state registration number or other identification of such [~~mobile unit~~] **limited station** and the area in which such [~~mobile unit~~] **limited station** is authorized to do business.

3. [~~Such license~~] **All licenses issued by the superintendent** shall be kept conspicuously posted in the place of business of the licensee or, in the case of a [~~mobile unit~~] **limited station**, upon such [~~mobile unit~~] **limited station**. Such license shall not be transferable or assignable.

4. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as provided in this article. **In the case of a change of control of a location or a business licensed hereunder, the licensee approved to acquire the business or**

location may utilize a true copy of the existing license pending the issuance of a new license by the superintendent.

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

6. The superintendent may refuse to issue a license pursuant to this article if he **or she** shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, (a) has been convicted of a crime in any jurisdiction or (b) is associating or consorting with any person who has, or persons who have, been convicted of a crime or crimes in any jurisdiction or jurisdictions; provided, however, that the superintendent shall not issue such a license if he **or she** shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws thereof. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or magistrate, or shall have been found guilty thereof by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such plea of guilty, or such decision, judgment or verdict, shall have been set aside, reversed or otherwise abrogated by lawful judicial process or unless the person convicted of the crime shall have received a pardon therefor from the president of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this article because of such conviction. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

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

§ 6. Section 370 of the banking law, as amended by chapter 151 of the laws of 1945, subdivision 2 as amended by section 38 of part O of chapter 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:

§ 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 [~~casher 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 cashers 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.

§ 7. 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:

§ 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**<u>, if such person is not already a licensee under this article,</u>** 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**<u>, 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,</u>** 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**<u>, limited liability company,</u>** 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 **<u>or her</u>** 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.

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

§ 371. Regulations. The superintendent is hereby authorized and empowered to make such rules and regulations, and such specific 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.

§ 9. 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:

§ 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, 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. **In the case of an internet, digital or other electronic advertisement or solicitation, a licensee shall be deemed to have fulfilled the disclosure requirements of 3 CRR-NY 400.8 and 406.6 of the superintendent's regulations by displaying the disclosures on its website, so long as the advertisement or solicitation includes a link directly to such website.**

4. 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 **or her** intention to change fees.

[~~4.~~] **5.** 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.~~] **6.** 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 all information related to the financial services transactions conducted by said licensee according to the provisions of section thirty-six-b of this chapter.**

[~~6.~~] 7. 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 the actual name under which such licensee is doing business and must have the words "licensed [~~casher of checks~~] financial services provider" legibly written or stamped immediately after or below such name.

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

§ 10. Section 372-a of the banking law, as added by chapter 432 of the laws of 2004, is amended to read as follows:

§ 372-a. Superintendent authorized to examine. 1. For the purpose of discovering violations of this article or securing information lawfully required in this section, the superintendent may at any time, and as often as may be determined, either personally or by a person duly designated by the superintendent, investigate the [~~cashing of checks by licensees~~] business practices of a licensee rendering financial services authorized by this article and examine the books, accounts, records, and files used therein of every licensee.

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

§ 11. Subdivisions 1 and 2 of section 373 of the banking law, subdivision 1 as amended by chapter 432 of the laws of 2004 and subdivision 2 as amended by chapter 132 of the laws of 1969, are amended and a new subdivision 2-a is added to read as follows:

1. No licensee shall engage in the business of making loans of money, credit, goods or things or discounting of notes, bills of exchange, checks, or other evidences of debt pursuant to the provisions of article nine of this chapter, nor shall a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks or other evidences of debt be conducted on the same premises where the licensee is conducting business pursuant to the provisions of this article. Except as otherwise provided by regulation of the superintendent, all checks, drafts and money orders shall be deposited in the licensee's bank account not later than the first business day following the day on which they were cashed. No licensee shall at any time cash or advance any moneys on a post-dated check or draft or engage in the business of transmitting money or receiving money for transmission; provided, however, that a licensee may cash a check [~~payable on the first banking business day following the date of cashing (a) if such check is drawn by the United States, the state of New York, or any political subdivision of~~

~~the state of New York, or by any department, bureau, agency, authority, instrumentality or officer, acting in his official capacity, of the United States or of the state of New York or of any political subdivision of the state of New York, or (b) if such check is a payroll check drawn by an employer to the order of its employee in payment for services performed by such employee~~] without regard to the date imprinted on the check as long as the check is deposited in the licensee's bank account not later than the first business day following the day on which it was cashed. No licensee shall cash any check, draft or money order if the face amount for which it is drawn is in excess of [~~fifteen~~] thirty thousand dollars and which amount shall be increased annually by a percentum amount, based upon an increase in the consumer price index for the New York-Northern N.J.-Long Island, NY-NJ-CT-PA area for all urban consumers (annual CPI-U), as reported by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year preceding the year in which such increase is made compared to such annual CPI-U for the year prior such preceding year; provided, however, that this restriction shall not apply to the cashing of checks, drafts or money orders drawn by the United States, any state thereof or any political subdivision of any such state, or by any department, bureau, agency, authority, instrumentality or officer, acting in his official capacity, of the United States, any state thereof or any political subdivision of any such state, or any [~~banking~~] financial institution, or to any check or draft drawn by or on account of any insurance company, any check issued on behalf of an insurance company, any broker or dealer registered with the securities and exchange commission, or affiliate of a broker or dealer, or any attorney [~~for the settlement of claims~~], or to any check issued as an advance to a lawsuit or as part of a structured settlement, or to any checks for compensation bonuses under incentive plans, or to any check which has been certified or guaranteed by the banking institution on which it has been drawn, or if such check is drawn on a bona fide workers' compensation fund issued by a third-party payor, or if such check is drawn by an employer from a pension or profit sharing fund, or if such check is drawn by a union from a pension or benefit fund or if such check is drawn by a union, or if such check is from the sale of real property; provided further, however, that any such restriction upon the maximum face amount that may be cashed by a licensee shall not apply to the cashing of checks, drafts or money orders by licensees for payees of such checks, drafts or money orders that are other than natural persons. For purposes of this subdivision, "[~~banking~~] financial institution" means any bank, trust company, savings bank, savings and loan association [~~or~~], credit union or other financial institution which is incorporated, chartered [~~or~~], organized or licensed under the laws of this state or any other state or the United States.

2. The superintendent may suspend or revoke any license or licenses issued pursuant to this article if, after notice and a hearing, he or she shall find that the licensee (a) has committed any fraud, engaged in any dishonest activities or made any misrepresentation; or (b) has violated any provisions of the banking law or any regulation issued pursuant thereto, or has violated any other law in the course of its or his dealings as a [~~licensed casher of checks~~] licensee delivering check cashing and related financial services to the public pursuant to this article; or (c) has made a false statement in the application for such license or failed to give a true reply to a question in such application; or (d) has demonstrated his or its incompetency or untrustworthiness to act as a [~~licensed casher of checks~~] licensee delivering finan-

cial services to the public pursuant to this article; or (e) is not doing sufficient business pursuant to this article to justify the continuance of the license, or if he or she shall find that any ground or grounds exist which would require or warrant the refusal of an application for the issuance of the license if such an application were then before him or her. Such a hearing shall be held in the manner and upon such notice as may be prescribed by the superintendent. Pending an investigation or a hearing for the suspension or revocation of any license or licenses issued pursuant to this article, the superintendent may temporarily suspend such license or licenses for a period not to exceed ninety days, provided the superintendent shall find that such a temporary suspension is in the public interest.

2-a. A licensee shall be deemed to be in compliance with the requirements of 3 NYCRR-400.5 (b) (3) provided that the licensee maintains a written policy, approved by the superintendent, designed to mitigate the risk that the licensee will cash any check or draft of any drawer that is likely to be dishonored.

§ 12. Subdivision 10 of section 36 of the banking law, as amended by chapter 182 of the laws of 2011, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed [~~casher of checks~~] financial services provider, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 13. Subdivisions 3 and 5 of section 37 of the banking law, as amended by chapter 360 of the laws of 1984, are amended to read as follows:

3. In addition to any reports expressly required by this chapter to be made, the superintendent may require any banking organization, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed mortgage banker, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company and any non-banking subsidiary thereof, corporate affiliate of a corporate banking organization within the meaning of subdivision six of section thirty-six of this article and any non-banking subsidiary of a corporation which is an affiliate of a corporate banking organization within the meaning of subdivision six-a of section thirty-six of this article to make special reports to him **or her** at such times as he **or she** may prescribe.

5. The superintendent may extend at his discretion the time within which a banking organization, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company or any non-banking subsidiary thereof, licensed [~~casher of checks~~] **financial services provider**, licensed mortgage banker, private banker or licensed lender is required to make and file any report to the superintendent.

§ 14. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law, subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009 and subdivision 3 as amended by chapter 155 of the laws of 2012, are amended to read as follows:

1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, he or she may, in his or her discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before him or her, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, he

or she may, in his or her discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before him or her to present any explanation in defense of the practices directed in said order to be discontinued.

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent on any licensed lender, registered mortgage broker, licensed mortgage banker, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, the superintendent may, in the superintendent's discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable him or her to readily ascertain its true condition, he or she may, in his or her discretion, issue an order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed [~~casher of checks~~] **financial services provider**, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

§ 15. Subdivisions 1, 2, 3, 4, 5 and 6 of section 42 of the banking law, subdivision 1 as amended by chapter 65 of the laws of 1948, subdivisions 2 and 3 as amended by chapter 553 of the laws of 1960, subdivision 4 as amended by chapter 60 of the laws of 1957 and subdivisions 5 and 6 as amended by chapter 249 of the laws of 1968, are amended to read as follows:

1. The name and the location of the principal office of every proposed corporation, private banker, licensed lender and licensed [~~casher of checks~~] financial services provider, the organization certificate, private banker's certificate or application for license of which has been filed for examination, and the date of such filing.

2. The name and location of every licensed lender and licensed [~~casher of checks~~] financial services provider, and the name, location, amount of capital stock or permanent capital and amount of surplus of every corporation and private banker and the minimum assets required of every branch of a foreign banking corporation authorized to commence business, and the date of authorization or licensing.

3. The name of every proposed corporation, private banker, branch of a foreign banking corporation, licensed lender and licensed [~~casher of checks~~] financial services providers to which a certificate of authorization or a license has been refused and the date of notice of refusal.

4. The name and location of every private banker, licensed lender, licensed [~~casher of checks~~] financial services provider, sales finance company and foreign corporation the authorization certificate or license of which has been revoked, and the date of such revocation.

5. The name of every banking organization, licensed lender, licensed [~~casher of checks~~] financial services provider and foreign corporation which has applied for leave to change its place or one of its places of business and the places from and to which the change is proposed to be made; the name of every banking organization which has applied to change the designation of its principal office to a branch office and to change the designation of one of its branch offices to its principal office, and the location of the principal office which is proposed to be redesignated as a branch office and of the branch office which is proposed to be redesignated as the principal office.

6. The name of every banking organization, licensed lender, licensed [~~casher of checks~~] financial services provider and foreign corporation authorized to change its place or one of its places of business and the date when and the places from and to which the change is authorized to be made; the name of every banking organization authorized to change the designation of its principal office to a branch office and to change the designation of a branch office to its principal office, the location of the redesignated principal office and of the redesignated branch office, and the date of such change.

§ 16. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed [~~casher of checks~~] financial services provider, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

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

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

(b) the amendments to section 373 of the banking law made by section eleven of this act shall expire and be deemed repealed June 30, 2022; and

(c) any contract, instrument, argument or other written obligation entered into by a financial service provider authorized under section 373 of the banking law prior to June 30, 2022 shall be deemed valid and enforceable after such date.