

STATE OF NEW YORK

8340

IN SENATE

May 2, 2018

Introduced by Sen. PHILLIPS -- 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 internet lending services

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

1 Section 1. The banking law is amended by adding a new article 3-C to
2 read as follows:

ARTICLE 3-C

INTERNET LENDING SERVICES

3 Section 156. Limited state charter for internet lending services.

4 156-a. Establishment of an internet lending services corpo-
5 ration.

6 156-b. Application for a limited state charter.

7 156-c. General powers and limitations.

8 156-d. Regulation and examination of the limited state chartered
9 internet lending services corporation; grounds for
10 revocation or suspension of the limited state charter;
11 procedure.

12 156-e. Books and records; reports.

13 156-f. Restrictions concerning advertising; liens on real
14 estate; and names under which loans are made.

15 156-g. Restrictions on loans subject to the provisions of this
16 article; interest; other charges.

17 156-h. Acts required of state chartered internet lending
18 services corporations; acts prohibited.

19 156-i. Limitation on state chartered internet lending services
20 corporations' charges on loans.

21 156-j. Restrictions on assignments of compensation for services.

22 156-k. Solicitation of loans.

23 156-l. Insurance.

24 156-m. Penalties.

25 156-n. Authority of superintendent.

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

LBD11824-02-7

1 156-o. Short title.

2 156-p. Severability.

3 § 156. Limited state charter for internet lending services. The
4 department shall recognize a limited state charter for internet lending
5 services. Any entity seeking to be awarded such limited state charter
6 shall comply with all the requirements of this article. Upon the grant-
7 ing of such limited state charter, the internet lending services corpo-
8 ration shall be subject to all of the regulations of the superintendent
9 authorized under this article.

10 § 156-a. Establishment of an internet lending services corporation.
11 1. To apply for a limited state charter to operate under this article as
12 an internet lending services corporation, the entity shall establish a
13 business corporation pursuant to the business corporation law, specify-
14 ing in its articles of incorporation that the purpose for which it is
15 formed, is that the corporation shall operate as an internet lending
16 services corporation in accordance with this article.

17 2. Any internet lending services corporation formed under the business
18 corporation law shall specify a home office of the corporation within
19 New York state, and shall apply to the superintendent for a limited
20 state charter to operate under this article, within thirty days of being
21 recognized as a business corporation by the department of state. No
22 lending services corporation shall conduct any lending services author-
23 ized under this article, until such time as it has been awarded its
24 limited state charter by the superintendent.

25 § 156-b. Application for a limited state charter. 1. An internet
26 lending services corporation may apply to the superintendent for a
27 limited state charter to operate as a lending services corporation in
28 accordance with this article. The superintendent shall develop an appli-
29 cation for an internet lending services corporation, to apply for such
30 limited state charter, pursuant to the qualifications specified under
31 this chapter.

32 2. The application for the limited state charter shall be in writing
33 and signed under oath by the chief executive officer of the corporation
34 that all the information provided therein is accurate and correct. At
35 the time of the making of the application for the limited state charter,
36 the applicant corporation shall pay to the superintendent a fee as
37 prescribed pursuant to section eighteen-a of this chapter for investi-
38 gating the application.

39 3. In connection with an application for a limited state charter under
40 this article, the applicant corporation shall submit an affidavit of
41 financial solvency, and signed under oath by the chief financial officer
42 of the corporation noting such capitalization requirements and access to
43 such credit as may be prescribed by the regulations of the superinten-
44 dent.

45 4. The applicant corporation shall also prove, in form satisfactory to
46 the superintendent, that the applicant has available for the operation
47 of the business as a state chartered internet lending services corpo-
48 ration liquid assets of at least two hundred fifty thousand dollars.
49 This amount shall be maintained for the period within which the appli-
50 cant makes loans in the amounts prescribed in subdivision two of section
51 one hundred fifty-six-c of this article.

52 5. In the event the superintendent does not approve the corporation's
53 application submitted pursuant to this section, within sixty days of its
54 submission, such application shall be deemed approved unless the super-
55 intendent can demonstrate, in writing, that such application does not
56 meet the legal requirements of this article, or that the financial

1 responsibility, experience, character, and general fitness of the offi-
2 cers and/or directors of the applicant internet lending services corpo-
3 ration, are such as to not command the confidence of the community nor
4 to warrant belief that the business will be operated honestly, fairly,
5 and efficiently within the purposes of this article.

6 6. If the superintendent shall find that the applicant has otherwise
7 met the requirements of this article, and would be available for the
8 operation of the business of being an internet lending services corpo-
9 ration, and can maintain and operate a secure internet or other type of
10 electronic platform for the conduct of such business, and can maintain
11 liquid assets of at least two hundred fifty thousand dollars, then the
12 superintendent shall thereupon issue such internet lending service
13 corporation a limited state charter to make loans in accordance with the
14 provisions of this article.

15 7. Upon the issuance of the limited state charter, the superintendent
16 shall transmit one copy of such limited state charter to the applicant
17 internet lending services corporation and file the same in the office of
18 the department. Each such limited state charter shall remain in full
19 force and effect until it is surrendered by the internet lending
20 services corporation or until it is revoked or suspended, or until the
21 internet lending services corporation is dissolved as a business corpo-
22 ration.

23 § 156-c. General powers and limitations. Every state chartered inter-
24 net lending services corporation shall, subject to the restrictions and
25 limitations contained in this chapter, have the following powers and
26 limitations:

27 1. To engage in the business of making loans over an internet or elec-
28 tronic platform, and to provide a customer with the funds of an approved
29 loan, whereby the application of the customer seeking the loan is taken,
30 and such loan is approved or denied, by the internet lending services
31 corporation, over the internet, or by other electronic means approved by
32 the superintendent.

33 2. Pursuant to subdivision one of this section, make loans and collect
34 payments on a loan in the principal amount of twenty-five thousand
35 dollars or less, for any loan to an individual for personal, family,
36 household, or investment purposes; and in a principal amount of fifty
37 thousand dollars or less, for business and commercial loans; and charge,
38 contract for, or receive a rate of interest in accordance with the
39 provisions of this article.

40 3. For the purposes of this section, an internet lending services
41 corporation shall be considered as engaging in the business of making
42 loans in New York, and subject to the requirements of this article, if
43 such internet lending services corporation solicits loans in the amounts
44 prescribed by this section, within this state, and in connection with
45 such solicitation, makes loans to individuals then resident in this
46 state.

47 4. No internet lending services corporation, or any other person or
48 entity shall be considered as engaging in the business of making loans
49 in this state in violation of this article, if such entity is licensed
50 or regulated by any federal entity responsible for licensing or regulat-
51 ing banking and/or loan making entities.

52 5. No internet lending services corporation, or any other person or
53 entity, that does not maintain a limited state charter in accordance
54 with this article, or that is not licensed or regulated by any federal
55 entity responsible for licensing or regulating banking and/or loan
56 making entities, or that is not otherwise authorized to engage in the

1 business of making loans pursuant to this chapter, shall engage in the
2 business of making loans over an internet or electronic platform.

3 § 156-d. Regulation and examination of the limited state chartered
4 internet lending services corporation; grounds for revocation or suspen-
5 sion of the limited state charter; procedure. 1. An internet lending
6 services corporation that is issued a limited state charter pursuant to
7 this article shall be subject to the regulation of, and examination by,
8 the superintendent in accordance with the provisions of this article.

9 2. The superintendent is authorized to examine a limited state char-
10 tered internet lending services corporation in accordance with this
11 article. For the purpose of discovering violations of this article or
12 securing information lawfully required pursuant thereto, the superinten-
13 dent may at any time, and as often as may be determined, either
14 personally or by a person duly designated by the superintendent, inves-
15 tigate the loans and business and examine the books, accounts, records,
16 and files used therein of every limited state chartered internet lending
17 services corporation. For that purpose the superintendent and duly
18 designated representatives shall have free access to the offices and
19 place of business, books, accounts, papers, records, files, computers,
20 networks, electronic platforms, safes and vaults of all such limited
21 state chartered internet lending services corporations. The superinten-
22 dent shall further have authority to require the attendance of, and to
23 examine under oath, all persons whomsoever whose testimony may be
24 required relative to such loans or such business.

25 3. The superintendent may impose a fine in accordance with section
26 forty-four of this chapter, or suspend or revoke any license issued
27 pursuant to this article if the superintendent shall find that:

28 (a) the state chartered internet lending services corporation has
29 failed to pay any sum of money lawfully demanded by the superintendent
30 or to comply with any lawful demand, ruling, or requirement of the
31 superintendent;

32 (b) the state chartered internet lending services corporation has
33 violated any provisions of this article, the act of congress entitled
34 "Truth in Lending Act" and the regulations thereunder, as such act and
35 regulations may from time to time be amended, or of any rule or regu-
36 lation lawfully made by the superintendent; or

37 (c) any fact or condition exists which, if it had existed at the time
38 of the original application for such limited state charter, clearly
39 would have warranted the superintendent in refusing originally to issue
40 such limited state charter.

41 4. The superintendent may, upon written notice to a state chartered
42 internet lending services corporation, and upon good cause shown, and
43 with a hearing in accordance with the provisions of the state adminis-
44 trative procedure act, suspend any limited state charter for a period
45 not exceeding sixty days, pending investigation. Upon written notice to
46 the state chartered internet lending services corporation, and upon good
47 cause, prior to the hearing required by this subdivision, the super-
48 intendent may issue an emergency suspension of a limited state charter,
49 for a period not exceeding five days.

50 5. Any state chartered internet lending services corporation may
51 surrender its limited state charter by delivering to the superintendent
52 written notice that such internet lending services corporation thereby
53 surrenders such limited state charter, but such surrender shall not
54 affect such internet lending services corporation's civil or criminal
55 liability for acts committed prior to such surrender. Any dissolution of
56 an internet lending services corporation in accordance with the business

1 corporation law, shall be deemed to constitute a surrender of its limit-
2 ed state charter in accordance with this subdivision.

3 6. No revocation or suspension or surrender of any limited state char-
4 ter under this article shall impair or affect the obligation of any
5 pre-existing lawful contract between the state chartered internet lend-
6 ing services corporation and any borrower.

7 7. Every limited state charter issued under this article shall remain
8 in force and effect until it shall have been surrendered, revoked, or
9 suspended in accordance with the provisions of this article, but the
10 superintendent shall further have the authority to reinstate suspended
11 limited state charters or to issue new limited state charters to an
12 internet lending services corporation whose limited state charter shall
13 have been revoked if no fact or condition then exists which clearly
14 would have warranted the superintendent in refusing originally to issue
15 such limited state charter under this article.

16 8. In addition to any other requirements of this article, whenever the
17 superintendent shall revoke or suspend a limited state charter issued
18 pursuant to this article, the superintendent shall execute a written
19 order to that effect and serve a copy of the same upon such internet
20 lending services corporation in accordance with this subdivision. The
21 superintendent shall further file one copy of such order in the office
22 of the department and serve a copy upon such internet lending services
23 corporation, which order may be reviewed in the manner provided by arti-
24 cle seventy-eight of the civil practice law and rules. Such special
25 proceeding for review as authorized by this section must be commenced
26 within thirty days from the date such order of suspension or revocation
27 was served upon such internet lending services corporation.

28 § 156-e. Books and records; reports. 1. Each state chartered internet
29 lending services corporation shall keep and use in its business such
30 books, accounts, and records as will enable the superintendent to deter-
31 mine whether such state chartered internet lending services corporation
32 is complying with the provisions of this article and with the rules and
33 regulations lawfully made by the superintendent pursuant thereto.

34 2. Every state chartered internet lending services corporation shall
35 preserve such books, accounts, and records, for at least two years after
36 making the final entry on any loan recorded therein. Preservation of
37 photographic reproduction thereof or records in photographic form,
38 including an optical disk storage system and the use of electronic data
39 processing equipment that provides comparable records to those otherwise
40 required and which are available for examination upon request shall
41 constitute compliance with the requirements of this section.

42 3. Each state chartered internet lending services corporation shall
43 annually, on or before the first day of April, file a report with the
44 superintendent giving such information as the superintendent may require
45 concerning the business and operations during the preceding calendar
46 year concerning the state chartered internet lending services corpo-
47 ration's business conducted within the state under authority of this
48 article. Such report shall be subscribed and affirmed as true by the
49 chief executive officer and the chief financial officer of the state
50 chartered internet lending services corporation, under penalty of perju-
51 ry, and shall be in the form prescribed by the superintendent who shall
52 make and publish annually a consolidated statement of condition showing
53 the combined assets and liabilities of all state chartered internet
54 lending services corporations. Such consolidated statement of condition
55 shall be based upon the information contained in such reports. In addi-
56 tion to annual reports, the superintendent may require, upon good cause,

1 such additional regular or special reports as may be deemed necessary to
2 the proper supervision of the state chartered internet lending services
3 corporation under this article. Such additional reports shall be in the
4 form prescribed by the superintendent and shall also be subscribed and
5 affirmed as true by the chief executive officer and the chief financial
6 officer of the state chartered internet lending services corporation,
7 under the penalty of perjury.

8 § 156-f. Restrictions concerning advertising; liens on real estate;
9 and names under which loans are made. 1. No state chartered internet
10 lending services corporation shall advertise, print, display, publish,
11 distribute, or broadcast or cause or permit to be advertised, printed,
12 displayed, published, distributed, or broadcasted, in any manner whatso-
13 ever any statement or representation with regard to the rates, terms, or
14 conditions for the loaning of money, credit, goods, or things in action
15 which is false, misleading or deceptive, or in violation of chapter
16 three of the act of congress entitled "Truth in Lending Act" and the
17 regulations thereunder, as such act and regulations may from time to
18 time be amended.

19 2. No state chartered internet lending services corporation shall
20 further make, directly or indirectly, orally or in writing, by any meth-
21 od, practice or device, any representation that it is chartered under
22 this chapter, except a representation that such internet lending
23 services corporation is chartered as a state chartered internet lending
24 services corporation by the department or except as authorized in writ-
25 ing by the superintendent.

26 3. No state chartered internet lending services corporation shall take
27 a lien upon real estate as security for any loan under the provisions of
28 this article, unless such lien is less than or equal to the amount of
29 the loan authorized pursuant to subdivision two of section one hundred
30 fifty-six-c of this article, or except if such lien as is created by law
31 upon the recording of a judgment.

32 4. No state chartered internet lending services corporation shall
33 transact business or make any loan provided for by this article under
34 any other name than that named in its limited state charter, except as
35 may be authorized by the superintendent.

36 § 156-g. Restrictions on loans subject to the provisions of this arti-
37 cle; interest; other charges. 1. Every internet lending services corpo-
38 ration issued a limited state charter under this article may loan any
39 sum of money not exceeding the maximum principal amounts prescribed in
40 subdivision two of section one hundred fifty-six-c of this article, and
41 may, subject to the provisions of this article, charge, contract for,
42 and receive thereon interest at the rate or rates agreed to by the state
43 chartered internet lending services corporation and the borrower.

44 2. The rate of interest on any loan made pursuant to this article may:
45 (a) be calculated on the actual unpaid principal balances of the loan;
46 or

47 (b) in the case of a loan commitment from the date of each advance
48 thereunder for the actual time outstanding, be calculated according to a
49 generally accepted actuarial method at a fixed or variable rate and in
50 accordance with the provisions of the evidence of the indebtedness; or

51 (c) be precomputed under subdivision seven of this section.

52 3. On any loan with a variable rate of interest made pursuant to this
53 article, the rate shall be determined at regular intervals as set forth
54 in the evidence of indebtedness and in accordance with such regulations
55 as the superintendent shall prescribe, but said rate shall not vary more

1 often than once in any three month period and shall be based on a
2 published index that is:

- 3 (a) readily available;
4 (b) independently verifiable;
5 (c) beyond the control of the state chartered internet lending
6 services corporation; and
7 (d) approved by the superintendent.

8 4. The superintendent shall adopt regulations to provide for the
9 following including, but not limited to:

10 (a) disclosure to the borrower by the state chartered internet lending
11 services corporation of the circumstances under which the rate may
12 increase, any limitations on the increase, the effect of an increase and
13 an example of the payment terms that would result from an increase;

14 (b) disclosure to the borrower by the the state chartered internet
15 lending services corporation of a history of the fluctuations of the
16 index over a reasonable period of time; and

17 (c) notice to the borrower from the state chartered internet lending
18 services corporation prior to any rate increase or change in the terms
19 of payment.

20 5. Loans may be granted under this article for an open end or closed
21 end loan agreement providing for a fixed or variable rate.

22 6. Interest, consideration, or charges for the use of money under this
23 article shall not be deducted or received in advance, and shall be
24 computed on unpaid principal balances. Such interest, consideration, or
25 charges shall not be compounded; provided that, if part or all of the
26 principal amount of any loan contract is the unpaid principal balance of
27 a prior loan, the unpaid interest, consideration or charges for the use
28 of money on such prior loan which have accrued within sixty days before
29 the making of such loan contract may be incorporated as interest bearing
30 principal in the principal amount of such loan contract, and for the
31 purposes of this subdivision any such new loan shall be deemed a sepa-
32 rate loan transaction.

33 7. When a closed-end loan agreement requires repayment in substantial-
34 ly equal and consecutive monthly installments of principal and interest
35 combined, the interest may be precomputed at the agreed rate on sched-
36 uled unpaid principal balances according to the terms of the agreement
37 and added to the principal amount of the loan. Every payment may be
38 applied to the combined total of principal and precomputed interest
39 until the loan agreement is fully paid and the acceptance or payment of
40 interest on loans made under the provisions of this subdivision shall
41 not be deemed to constitute payment, deduction or receipt thereof in
42 advance nor compounding under subdivision six of this section. Such
43 precomputed interest shall be subject to the following adjustments:

44 (a) If the loan agreement is prepaid in full by cash, a new loan,
45 refinancing or otherwise before the final installment date, the borrower
46 shall receive a refund of:

47 (i) the unearned portion of the interest the amount of which portion
48 shall be determined according to a generally accepted actuarial method;
49 provided, however, that if the amount of precomputed interest:

50 (A) is less than ten dollars, then no refund shall be required; or

51 (B) exceeds the sum of ten dollars and the earned interest is less
52 than that amount, then the state chartered internet lending services
53 corporation may retain such an additional amount as will bring the
54 earned interest to ten dollars and refund the remainder, and provided
55 further, that unless the loan is refinanced, no refund shall be required
56 if it amounts to less than one dollar; and

1 (ii) if a charge was made to the borrower for credit related insurance
2 for insuring the borrower the excess of the charge to the borrower
3 therefor over the insurance charges paid or payable by the state char-
4 tered internet lending services corporation, if such insurance charges
5 were paid or payable by the state chartered internet lending services
6 corporation periodically, or the refund for such insurance charges
7 received or receivable by the state chartered internet lending services
8 corporation, if such premium was paid or payable in a lump sum by the
9 state chartered internet lending services corporation, provided that no
10 such refund shall be required if it amounts to less than ten dollars.

11 (b) In the event:

12 (i) the maturity of the loan is accelerated due to the default of the
13 borrower or otherwise and judgment is obtained; or

14 (ii) repayment is made pursuant to any credit related insurance policy
15 for which a charge was made to the borrower for the premium thereon,
16 the borrower or legal representative, as the case may be, shall be
17 entitled to the same refund of interest and insurance charges as if the
18 loan had been prepaid in full on the date of acceleration or repayment.

19 (c) (i) In the event of default of more than ten days in the payment
20 of any scheduled installment, the state chartered internet lending
21 services corporation may charge and collect a default charge not exceed-
22 ing five percent of the installment in default. This charge may not be
23 collected more than once for the same default and may be collected at
24 the time of such default or at any time thereafter.

25 (ii) After the final due date or upon acceleration of maturity for
26 default, the state chartered internet lending services corporation may
27 charge interest at the original agreed rate on actual unpaid balances if
28 the loan agreement so provides.

29 (d) If payment of all unpaid installments on which no default charge
30 has been charged and collected is deferred one or more full months, and
31 if the loan agreement so provides, the state chartered internet lending
32 services corporation may charge and collect an amount which shall be
33 equal to the difference between the refund that would be required for
34 prepayment in full as of the scheduled due date of the first deferred
35 installment and the amount which would be required for prepayment in
36 full as of one month prior to said date, multiplied by the number of
37 months in the deferment period. The deferment period is that period in
38 which no scheduled payment has been made and in which no payment is
39 required by reason of the deferment. Such charge may be collected at the
40 time of deferment or may be collected at any time thereafter. If a
41 refund of precomputed interest is required during a deferment period the
42 borrower shall also receive a refund of the deferment charge for the
43 number of months remaining in said period, for which purpose a portion
44 of a month exceeding fifteen days shall be deemed a month.

45 (e) If two or more installments or parts thereof are in default for
46 five days or more, the state chartered internet lending services corpo-
47 ration may, if the loan agreement so provides, elect to convert the loan
48 from a precomputed one to one in which interest is paid on actual unpaid
49 balances. In this event, the state chartered internet lending services
50 corporation shall make the same refund of interest as if the loan were
51 prepaid in full on the scheduled payment due date preceding the date of
52 conversion and thereafter may charge interest at the agreed rate, by the
53 actuarial method, on actual unpaid balances for the time actually
54 outstanding.

55 8. (a) In addition to the interest, consideration, or charges speci-
56 fied in this section, no further or other charge or amount whatsoever

1 for any examination, service, brokerage, commission, expense, fee, or
2 bonus or other thing or otherwise shall be directly or indirectly
3 charged, contracted for, or received, except the premium or identifiable
4 charge for insurance authorized by section one hundred fifty-six-1 of
5 this article; the lawful fees, if any, actually and necessarily paid out
6 by the state chartered internet lending services corporation to any
7 public officer for filing, recording, or releasing in any public office
8 any instrument securing the loan, which fees may be collected when the
9 loan is made or at any time thereafter or non-filing insurance premiums
10 not in excess of ten dollars in lieu of filing, recording or releasing
11 any such instrument; an annual fee on open end loans authorized by the
12 superintendent and made pursuant to subdivision five of this section,
13 provided, however, that no such fee shall exceed an amount equal to one
14 percent of the amount of the loan or fifty dollars, whichever is less;
15 and a fee, not to exceed the amount set forth in section 5-328 of the
16 general obligations law, for return by a depository institution of a
17 dishonored check, negotiable order of withdrawal, or share draft.

18 (b) Any state chartered internet lending services corporation which
19 knowingly receives, reserves or charges a greater rate of interest than
20 that authorized by this section shall forfeit the entire interest which
21 the note, or other evidence of debt carries with it, or which has been
22 agreed to be paid thereon, and if a greater rate of interest has been
23 paid, the person paying the same or his legal representative may recover
24 from the state chartered internet lending services corporation twice the
25 entire amount of interest thus paid.

26 (c) In addition to other such information as the superintendent may
27 require, any state chartered internet lending services corporation which
28 charges an annual fee on open-end loan accounts shall annually report,
29 in a manner and form prescribed by the superintendent, information to
30 the department on open-end loan borrowers, which shall include:

- 31 (i) the average annual income of borrowers at the time of the loan;
32 (ii) the average amount of loans outstanding at the end of each calen-
33 dar year;
34 (iii) the average interest charged, average amount of annual fees; and
35 (iv) the geographic distribution of loans made by the state chartered
36 internet lending services corporation.

37 § 156-h. Acts required of state chartered internet lending services
38 corporations; acts prohibited. 1. Every state chartered internet lend-
39 ing services corporation shall:

40 (a) Deliver to the borrower at the time any loan is made or prior to
41 the first advance under an open-end loan agreement, a statement, in the
42 English language, which may be in electronic form, showing in clear and
43 distinct terms the name and address of the borrower and of the state
44 chartered internet lending services corporation and all items required
45 to be disclosed by the act of congress entitled "Truth in Lending Act"
46 and the regulations thereunder, as such act and regulations may from
47 time to time be amended;

48 (b) Give, for each cash payment made on account of any closed-end
49 loan, to the person making it at the time the payment is made, a plain
50 and complete receipt, which may be in electronic form, containing the
51 information required by regulations of the superintendent; and

52 (c) Permit payment to be made in advance in any amount on any loan
53 agreement at any time, but the state chartered internet lending services
54 corporation may initially apply such payment to all interest and other
55 charges due to the date of such payment.

1 2. Upon repayment of a loan in full, the state chartered internet
2 lending services corporation shall mark indelibly every obligation
3 signed by the borrower or a copy thereof with the word "paid" or
4 "cancelled", and shall release any mortgage or security agreement no
5 longer securing an obligation of the borrower, and shall restore any
6 pledge, cancel and return any note or a copy thereof, and cancel and
7 return any assignment or a copy thereof given to the state chartered
8 internet lending services corporation by the borrower.

9 3. An open-end loan shall not be deemed to be repaid in full for the
10 purposes of this article unless any balance is paid in full and the
11 borrower relinquishes all power to receive further advances under the
12 contract and makes a written request for the release of all collateral
13 for the loan.

14 4. Every state chartered internet lending services corporation which
15 holds collateral of a borrower shall be fully liable for the return of
16 the collateral upon payment of the indebtedness in full.

17 5. No state chartered internet lending services corporation shall take
18 any confession of judgment, or any power of attorney running to itself
19 or to any third person to confess judgment or to appear for the borrower
20 in a judicial proceeding.

21 6. No state chartered internet lending services corporation shall
22 further take any instrument in which blanks are left to be filled in
23 after execution.

24 § 156-i. Limitation on state chartered internet lending services
25 corporations' charges on loans. 1. No state chartered internet lending
26 services corporation shall directly or indirectly charge, contract for,
27 or receive any interest, discount, or consideration upon the loan, use,
28 or forbearance of money, goods, or things in action, or upon the loan,
29 use, or sale of credit, of the amount or value of more than the maximum
30 amounts prescribed in this article, and/or greater than the rate permit-
31 ted by section 5-501 of the general obligations law.

32 2. The prohibition in subdivision one of this section shall also apply
33 to any state chartered internet lending services corporation which
34 permits any person, as borrower or as endorser, guarantor, or surety for
35 any borrower or otherwise, to owe directly or contingently or both to
36 the state chartered internet lending services corporation at any time
37 more than the maximum amounts prescribed in subdivision two of section
38 one hundred fifty-six-c of this article.

39 § 156-j. Restrictions on assignments of compensation for services. 1.
40 A state chartered internet lending services corporation shall not take
41 an assignment of unearned wages or other earnings unless:

42 (a) the assignment by its terms is revocable at the will of the
43 borrower; or

44 (b) the assignment is a payroll deduction plan.

45 2. No assignment of wages or other earnings given to secure any loan
46 hereunder shall be valid unless the amount of such loan is paid to the
47 borrower simultaneously with its execution.

48 § 156-k. Solicitation of loans. 1. Any loan in an amount exceeding
49 the maximum amounts prescribed in subdivision two of section one hundred
50 fifty-six-c of this article, where solicitation of the loan was made
51 within this state, and/or where the interest, discount, consideration or
52 other charge contracted for or received exceeds that permitted to a
53 state chartered internet lending services corporation under the laws of
54 this state shall be void, and the state chartered internet lending
55 services corporation shall have no right to collect or receive any prin-
56 cipal, interest or charge whatsoever.

1 2. No action to enforce a loan made in violation of subdivision one of
2 this section may be maintained, even though the amount demanded to be
3 paid in such action does not exceed that permitted to a state chartered
4 internet lending services corporation under the provisions of this arti-
5 cle.

6 3. For purposes of this article, solicitation of a loan shall include
7 any solicitation, request or inducement to enter into a loan made by
8 means of or through a direct mailing, television or radio announcement
9 or advertisement, advertisement in a newspaper, magazine, leaflet or
10 pamphlet distributed within this state, or visual display within this
11 state, or by electronic means on the internet or other electronic plat-
12 form, whether or not such solicitation, request or inducement consti-
13 tutes an offer to enter into a contract.

14 § 156-1. Insurance. 1. A state chartered internet lending services
15 corporation may require a borrower, on loans of two hundred fifty
16 dollars or more, excluding insurance premiums and precomputed interest,
17 to insure tangible personal property, except household goods, taken as
18 security for a loan against any substantial risk of loss, damage or
19 destruction for an amount not to exceed the lesser of the reasonable
20 value of the property insured or the principal amount of the loan, and
21 for the customary insurance term approximating the term of the loan
22 contract.

23 2. The insurance policy required by the state chartered internet lend-
24 ing services corporation in subdivision one of this section may insure
25 the interest of the borrower as well as the interest of the state char-
26 tered internet lending services corporation.

27 3. The insurance policy required by the state chartered internet lend-
28 ing services corporation in subdivision one of this section, covering a
29 motor vehicle securing the loan may also insure the borrower against
30 liability for bodily injury and property damage, but such liability
31 insurance shall be at the option of the borrower and shall not be
32 required by the state chartered internet lending services corporation.

33 4. The premiums for all such insurance policies required by the state
34 chartered internet lending services corporation in subdivision one of
35 this section shall not exceed the premiums chargeable in accordance with
36 rate filings made with the superintendent for such insurance by the
37 insurer.

38 5. The insurance policy required by the state chartered internet lend-
39 ing services corporation in subdivision one of this section shall be
40 written by, or through, a duly licensed insurance agent or broker, or
41 shall be provided directly by a company qualified to do business in this
42 state.

43 6. For purposes of this section, the term "household goods" shall mean
44 clothing, furniture, appliances, one radio and one television, linens,
45 china, crockery, kitchenware, and personal effects (including wedding
46 rings) owned by the consumer and his or her dependents, but shall not
47 include works of art, other electronic entertainment equipment, items
48 acquired as antiques, or other jewelry.

49 7. When a state chartered internet lending services corporation
50 provides credit life insurance, credit accident and health insurance, or
51 credit unemployment insurance, or credit property insurance pursuant to
52 section two thousand three hundred forty of the insurance law, or any
53 combination thereof with respect to one or more borrowers, such state
54 chartered internet lending services corporation may collect from the
55 borrower a premium or identifiable charge which shall not exceed the
56 premium rates or identifiable charges chargeable in accordance with rate

1 filings made with the superintendent for such insurance by the insurer,
2 subject to a refund of the insurance charge computed as provided in
3 paragraph (a) of subdivision seven of section one hundred fifty-six-g of
4 this article, in the event of prepayment by cash, a new loan, refinanc-
5 ing or otherwise. Only one such amount may be collected in connection
6 with any loan contract irrespective of the number of obligors and only
7 one obligor need be insured.

8 8. The insurance authorized by this section, with the exception of
9 insurance provided under group insurance policies, may be written by or
10 arranged through the state chartered internet lending services corpo-
11 ration or an affiliate, associate or employee of the state chartered
12 internet lending services corporation only if such state chartered
13 internet lending services corporation, affiliate, associate or employee
14 is a duly licensed insurance agent or broker, provided, however, no
15 state chartered internet lending services corporation shall decline new
16 or existing insurance which meets or exceeds the standards set forth in
17 this section, nor prevent any borrower from obtaining such insurance
18 coverage from other sources.

19 9. If a borrower procures such insurance by or through a state char-
20 tered internet lending services corporation, the statement required by
21 section one hundred fifty-six-h of this article shall disclose the cost
22 or rate of charge to the borrower and the type of insurance, and the
23 state chartered internet lending services corporation shall cause to be
24 delivered to the borrower a copy of the policy, certificate, or other
25 evidence thereof within a reasonable time.

26 10. The insurance authorized by this section and all benefits or
27 returns therefrom accruing to the state chartered internet lending
28 services corporation or to any affiliate, associate or employee of the
29 state chartered internet lending services corporation shall not be
30 prohibited by any other provision of this article.

31 11. No insurance shall be required, requested, sold or offered for
32 sale in connection with any loan made under this article, except as and
33 to the extent authorized by this section or as provided in subdivision
34 eight of section one hundred fifty-six-g of this article.

35 12. If the borrowers on any loan are husband and wife, joint credit
36 life insurance and joint credit accident and health insurance may be
37 issued on such loan pursuant to this section.

38 § 156-m. Penalties. Any state chartered internet lending services
39 corporation, including the officers, directors, agents, and employees
40 thereof, which shall willfully violate or participate in the willful
41 violation of any of the provisions of section one hundred fifty-six-c of
42 this article shall be guilty of a misdemeanor.

43 § 156-n. Authority of superintendent. The superintendent is hereby
44 authorized and empowered to make such general and lawful rules and regu-
45 lations, and such specific rulings, demands, and findings as may be
46 necessary for the proper conduct of the business authorized under and
47 for the enforcement of this article, in addition thereto and not incon-
48 sistent therewith.

49 § 156-o. Short title. This article shall be known and may be cited as
50 the "New York limited state charter for internet lending services law".

51 § 156-p. Severability. If any provision of this article or the appli-
52 cation thereof to any natural person, corporation or circumstances is
53 held to be invalid, such invalidity shall not affect other provisions or
54 applications of this article which can be given effect without the
55 invalid provision or application, and to this end the provisions of this
56 article are severable.

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

4 (a) Without limiting any power granted to the superintendent under any
5 other provision of this chapter, the superintendent may, in a proceeding
6 after notice and a hearing, require any safe deposit company, licensed
7 lender, licensed casher of checks, licensed sales finance company,
8 licensed insurance premium finance agency, licensed transmitter of
9 money, licensed mortgage banker, registered mortgage broker, licensed
10 mortgage loan originator, registered mortgage loan servicer or licensed
11 budget planner, or state chartered internet lending services corporation
12 to pay to the people of this state a penalty for any violation of this
13 chapter, any regulation promulgated thereunder, any final or temporary
14 order issued pursuant to section thirty-nine of this article, any condi-
15 tion imposed in writing by the superintendent in connection with the
16 grant of any application or request, or any written agreement entered
17 into with the superintendent.

18 § 3. This act shall take effect immediately.