STATE OF NEW YORK

3223

2019-2020 Regular Sessions

IN SENATE

February 4, 2019

Introduced by Sen. SANDERS -- 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 assessment of the record of performance of banking institutions in helping to meet the credit needs of local communities

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

Section 1. Subdivision 3 of section 28-b of the banking law, as amended by chapter 315 of the laws of 2008, the opening paragraph and paragraph 12 of paragraph (a) as amended by chapter 227 of the laws of 2013, is amended to read as follows:

3. (a) When taking any action on an application or notice made by a banking institution under (i) section one hundred five, two hundred twenty-four, two hundred forty, or three hundred ninety-six of this chapter for a branch office, (ii) section one hundred ninety-one of this chapter for a public accommodation office, (iii) section six hundred one-b of this chapter for approval of a merger or purchase of assets, or (iv) under section one hundred five-a, two hundred forty-a or three hundred ninety-six-a of this chapter for the use or installation of an automated teller machine, point-of-sale terminal or similar electronic facility or on any other application or notice to which the superintendent of financial services shall by rule or regulation make applicable the provisions of this section, the superintendent shall take into account, among other factors, an assessment, in writing, of the record of performance of the banking institution in helping to meet the credit needs of its entire community, including low and moderate-income neighborhoods **and minority- and women-owned businesses**, consistent with safe and sound operation of the banking institution. Such assessment and any written communications from the department of financial services to a banking institution relating to such assessment shall be made available to the public upon request, provided that nothing contained in this

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

LBD05856-01-9

subdivision shall be deemed to alter, amend or affect the provisions of subdivision ten of section thirty-six of this chapter. In making such assessment the superintendent shall review all reports and documents filed pursuant to subdivision one of this section and any signed, written comments received by the superintendent which specifically relate to the banking institution's performance in helping to meet the credit needs of its community. In addition, the superintendent shall consider the following factors in assessing a banking institution's record of performance:

(1) Activities conducted by the banking institution to ascertain credit needs of its community, including the extent of the banking institution's efforts to communicate with members of its community regarding the credit services being provided by the banking institution;

(2) The extent of the banking institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the banking institution;

(3) The extent of participation by the banking institution's board of directors or board of trustees in formulating the banking institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(4) Any practices intended to discourage application for types of credit set forth in the banking institution's Community Reinvestment Act Statement(s);

(5) The geographic distribution of the banking institution's credit extensions, credit applications and credit denials;

(6) Evidence of prohibited discriminatory or other illegal credit practices;

(7) The banking institution's record of opening and closing offices and providing services at offices;

(8) The banking institution's participation, including investments, in local community development and redevelopment projects or programs **and in technical assistance programs for small businesses and minority- and women-owned businesses**;

(9) The banking institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans and small business or small farm **or minority- and women-owned business** loans within its community or the purchase of such loans originated in its community;

(10) The banking institution's participation in governmentally-insured, guaranteed or subsidized loan programs for housing, small businesses or small farms;

(11) The banking institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition and other factors;

(11-a) The geographic distribution, availability and use of automated teller machines, point-of-sale terminals, personal computer banking, debit cards or similar electronic facilities or services; and any training of customers thereon among every branch of the banking institution, if the institution offers such services to any of its customers; and

(12) Other factors that, in the judgment of the superintendent, reasonably bear upon the extent to which a banking institution is helping to meet the credit needs of its entire community, including, without limitation, the banking institution's participation in credit counseling services.

(b) In assessing the record of performance of a banking institution pursuant to the provisions of paragraph (a) of this subdivision, the

superintendent may, where he or she deems it appropriate, provide for public hearings when an objection to the banking institution's application or notification has been submitted.

(c) An assessment of a banking institution's record of performance under paragraph (a) of this subdivision may be the basis for denying an application or notice under the provisions of this section.

(d) When taking any action pursuant to paragraph (a) of this subdivision, the superintendent shall request from the applicant or notificant banking institution and from the appropriate federal bank regulatory authorities any documents, other than those required to be filed with the superintendent by this section or by other applicable statutes or regulations, which are (1) filed with the federal bank regulatory authorities in connection with the application or notice or (2) produced by the applicant or notificant banking institution or others in connection with the application or notice.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of the foregoing section of this act on its effective date are authorized to be made on or before such effective date.