STATE OF NEW YORK

9078

IN ASSEMBLY

January 16, 2020

Introduced by M. of A. TAYLOR -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to establishing the New York state loan shark act

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 and may be cited as the "New York state loan shark act".

§ 2. The general business law is amended by adding a new section 517-a to read as follows:

§ 517-a. Maximum credit card interest rates. 1. For the purposes of this section "annual percentage rate of interest" or "annual percentage rate" shall mean the annual percentage rate for a loan of credit calculated according to the provisions of the Federal Truth in Lending Act (15 U.S.C. § 1601, et seq.) and the regulations promulgated thereunder by the federal reserve board, as said act and regulations are amended from time to time.

2. Notwithstanding any other provision of law, but except as provided in subdivision four of this section, the annual percentage rate applicable to any extension of credit shall not exceed fifteen percent on unpaid balances, inclusive of all finance charges.

3. Any fees that are not considered finance charges under section one hundred six of the Federal Truth in Lending Act (15 U.S.C. § 1605) may not be used to evade the limitations of subdivision two of this section, and the total sum of such fees may not exceed the total amount of finance charges assessed.

4. (a) The superintendent of financial services may establish a maximum annual percentage rate of interest exceeding the fifteen percent annual rate under subdivision two of this section for periods which shall not exceed eighteen months, upon a determination that:

(i) money market interest rates have risen over the preceding six month period; and

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

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(ii) prevailing interest rate levels threaten the safety and soundness of individual lenders, as evidenced by adverse trends in liquidity, capital, earnings, and growth.

(b) The limitation in subdivision two of this section shall not apply with respect to any extension of credit by a credit union, as defined by section two of the banking law.

5. (a) Knowingly taking, receiving, reserving, or charging of an annual percentage rate or fee greater than that permitted by subdivision two of this section shall be deemed a violation of this section, and the creditor shall be subject to a forfeiture of the entire interest which the note, bill, or other evidence of such obligation carries with it, or which has been agreed to be paid thereon.

(b) If an annual percentage rate or fee greater than that permitted under subdivision two of this section has been paid, the person by whom it has been paid, or the legal representative of such person, may, by bringing an action not later than two years after the date on which the usurious collection was last made, recover back from the lender in an action of debt, the entire amount of interest, finance charges, or fees paid.

6. Any creditor who violates this section shall be subject to the provisions of section five hundred thirteen of this article.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law; provided that the provisions of this act shall apply to contracts entered into, altered, modified, extended, or renewed on or after such effective date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the superintendent of financial services on or before such effective date.