

STATE OF NEW YORK

1061--A

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law and the administrative code of the city of New York, in relation to regulating commercial finance licensing, establishing the minority- and women-owned business protection program, providing for the study of certain impacts on underbanked and underserved areas and making conforming technical changes relating thereto

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

Section 1. Article 9-A of the banking law is renumbered article 9-B and a new article 9-A is added to read as follows:

ARTICLE IX-A

COMMERCIAL FINANCE LICENSING

Section 363. Doing business without license prohibited.

363-a. Definitions.

363-b. Exemptions.

363-c. Application for license.

363-d. Conditions for issuance of a license.

363-e. Locations; change of address.

363-f. Changes in control.

363-g. Grounds for suspension or revocation.

363-h. Examinations.

363-i. Books and records.

363-j. Advertising.

363-k. Prohibited practices of licensees.

363-l. Penalties.

363-m. Minority- and women-owned business protection program.

363-n. Study; certain impacts on underbanked and underserved areas.

363-o. Regulations.

363-p. Severability.

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

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1 § 363. Doing business without license prohibited. 1. No person or
2 other entity shall engage in the business of making or soliciting
3 commercial financing products to businesses located in New York state
4 except as authorized by this article and without first obtaining a
5 license from the superintendent.

6 2. For the purposes of this article, a person or entity shall be
7 considered as engaging in the business of making commercial financing
8 products to businesses located in New York state if it solicits or
9 consummates commercial financing products to any business or commercial
10 enterprise located in New York state.

11 § 363-a. Definitions. For purposes of this article:

12 1. "commercial financing product" means any advance of funds to a
13 commercial or business enterprise made for the purpose of assisting the
14 business with its capital needs, including but not limited to:

15 (a) loans or lines of credit made to a business or commercial enter-
16 prise in a principal amount of five hundred thousand dollars or less,
17 whether secured or unsecured;

18 (b) purchase transactions where an entity purchases accounts, receiv-
19 ables, intangibles, revenue or other actual or perceived assets of the
20 business if any single payment or advance of the purchase price for the
21 purchased accounts, receivables, intangibles, revenue or other actual or
22 perceived assets of the business is in the amount of five hundred thou-
23 sand dollars or less; or

24 (c) any leasing transaction where any funds are provided to the busi-
25 ness or commercial enterprise by the leasing business or any affiliate
26 of the leasing business in the amount of five hundred thousand dollars
27 or less; and

28 2. "making or soliciting" means (a) providing commercial financing
29 products to small businesses; (b) marketing commercial financing
30 products for providers of commercial financing products; (c) receiving
31 any compensation from a provider of commercial financing products based
32 on the value of the commercial financing product provided in exchange
33 for a referral of small business or its owner; and (d) any entity that
34 partners with federal or state banking organization in which the federal
35 or state banking organization originates the commercial financing prod-
36 uct and the entity acquires a participation or syndication interest, in
37 part or whole, of the commercial financing product and the (i) entity
38 receives compensation for marketing or servicing the transaction from
39 the federal or state banking organization, or collects any payments due
40 under the commercial financing product; or (ii) provides any indemnity
41 or loss protection to the federal or state banking organization for
42 losses the federal or state banking organization may incur as a result
43 of performance of the commercial financing product.

44 § 363-b. Exemptions. The following shall be exempt from the provisions
45 of this article:

46 1. any person who makes or solicits five or fewer commercial financing
47 products within any twelve month period;

48 2. any banking organization, as defined in subdivision eleven of
49 section two of this chapter;

50 3. any federal credit union;

51 4. any insurance company;

52 5. any person if and to the extent that such person is lending money
53 and licensed in accordance with, and as authorized by, any other appli-
54 cable law of the state of New York; provided, however, such exemption
55 shall apply only to those transactions subject to requirements under
56 article nine-B of this chapter and such exemption shall not apply to

1 transactions subject to the provisions of this article that are not
2 expressly regulated by article nine-B of this chapter; or

3 6. any transaction that is intended to be a purchase of the ownership,
4 in whole or part, of a business or commercial enterprise.

5 § 363-c. Application for license. 1. An application for a license
6 shall be in writing, under oath, and in the form prescribed by the
7 superintendent and shall contain such information as the superintendent
8 may require by regulation. The application shall set forth all of the
9 locations at which the applicant seeks to conduct business pursuant to
10 this article. At the time of making the application for a license, the
11 applicant shall pay to the superintendent a fee as prescribed by regu-
12 lation for each proposed location for investigating the application.

13 2. In connection with an application for a license, the applicant
14 shall submit an affidavit of financial solvency noting such capitaliza-
15 tion requirements and access to such credit as may be prescribed by the
16 regulations promulgated by the superintendent.

17 3. The applicant shall also prove, in form satisfactory to the super-
18 intendent, that the applicant has available for the operation of such
19 business at the location or locations specified in the application
20 liquid assets of at least fifty thousand dollars. This amount shall be
21 maintained for the period within which the licensee is licensed.

22 4. If a person or entity holding a license seeks to open another
23 location for the conduct of activities licensable under this article,
24 the licensee shall first submit written notification of this fact to the
25 superintendent. The notification shall contain the address of the new
26 location and the license number. An investigation fee as prescribed in
27 regulations shall be paid for each additional location. The additional
28 location shall be authorized upon written approval by the superintendent
29 or after ninety days have passed since the notification was provided and
30 investigation fee was paid unless the superintendent denies the request
31 for an additional location prior to the expiration of the ninety days.
32 The superintendent may deny a request for an additional location if the
33 new location by the licensee is not in the public interest, in which
34 case, the superintendent shall send a written denial to the licensee.

35 § 363-d. Conditions for issuance of a license. Upon the filing of such
36 application and the payment of such fees, if the superintendent shall
37 find that the financial responsibility, experience, character, and
38 general fitness of the applicant, and of the members thereof if the
39 applicant be a partnership or association, and of the officers and
40 directors thereof if the applicant be a corporation, are such as to
41 command the confidence of the community and to warrant belief that the
42 business will be operated honestly, fairly, and efficiently within the
43 purposes of this article, and if the superintendent shall find that the
44 applicant has available for the operation of such business at each spec-
45 ified location liquid assets of at least fifty thousand dollars, the
46 superintendent shall thereupon execute a license at the location or
47 locations specified in the said application. The superintendent shall
48 transmit one copy of such license or licenses to the applicant and file
49 the same in the office of the department. Each such license shall remain
50 in full force and effect until it is surrendered by the licensee or
51 revoked or suspended as hereinafter provided; if the superintendent
52 shall not so find, a license shall not be issued and the superintendent
53 shall notify the applicant of the denial. If an application is denied or
54 withdrawn the superintendent shall return to the applicant the sum paid
55 by the applicant as a license fee, retaining the investigation fee to
56 cover the costs of investigating such application. The superintendent

1 shall approve or deny every application for a master license under this
2 article within ninety days from the filing thereof with the applicable
3 fees.

4 § 363-e. Locations; change of address. 1. A license shall state the
5 address at which the business is to be conducted and shall state fully
6 the name of the licensee, and if the licensee is a partnership or asso-
7 ciation, the names of the members thereof, and if a corporation, the
8 date and place of its incorporation. No license shall be transferable or
9 assignable.

10 2. Every location used by the licensee to conduct business must be
11 identified in the application and approved by the superintendent. After
12 a license has been issued, any application for a change in address or
13 new location must be submitted within forty-five days of such proposed
14 change or addition. The licensee shall pay to the superintendent a fee
15 as prescribed by regulation for each change or addition and shall
16 provide any information which may be required regarding such new
17 location. If the superintendent is not satisfied that such change or
18 addition is in accordance with the purposes of this article, the super-
19 intendent shall refuse such change of location or additional location
20 and notify the licensee of such determination.

21 § 363-f. Changes in control. 1. It shall be unlawful except with the
22 prior approval of the superintendent for any action to be taken which
23 results in a change of control of the business of a licensee. Prior to
24 any change of control, the person desirous of acquiring control of the
25 business of a licensee shall make written application to the superinten-
26 dent and pay an investigation fee as prescribed by regulation. The
27 application shall contain such information as the superintendent, by
28 rule or regulation, may prescribe as necessary or appropriate for the
29 purpose of making the determination required by subdivision two of this
30 section.

31 2. The superintendent shall approve or disapprove the proposed change
32 of control of a licensee in accordance with the provisions of sections
33 three hundred sixty-three-c and three hundred sixty-three-d of this
34 article. The superintendent shall approve or disapprove the application
35 in writing within ninety days after the date the application is filed
36 with the superintendent.

37 3. For a period of six months from the date of qualification thereof
38 and for such additional period of time as the superintendent may
39 prescribe, in writing, the provisions of subdivisions one and two of
40 this section shall not apply to a transfer of control by operation of
41 law to the legal representative, as defined in subdivision four of this
42 section, of one who has control of a licensee. Thereafter, such legal
43 representative shall comply with the provisions of subdivisions one and
44 two of this section.

45 4. The term "legal representative", for the purposes of this section,
46 shall mean one duly appointed by a court of competent jurisdiction to
47 act as executor, administrator, trustee, committee, conservator or
48 receiver, including one who succeeds a legal representative and one
49 acting in an ancillary capacity thereto in accordance with the
50 provisions of such court appointment.

51 5. As used in this section: (a) the term "person" includes an individ-
52 ual, partnership, corporation, association or any other organization;
53 and (b) the term "control" means the possession, directly or indirectly,
54 of the power to direct or cause the direction of the management and
55 policies of a licensee, whether through the ownership of voting stock of
56 such licensee, the ownership of voting stock of any person which

1 possesses such power or otherwise. Control shall be presumed to exist if
2 any person, directly or indirectly, owns, controls or holds with power
3 to vote ten per centum or more of the voting stock of any licensee or of
4 any person which owns, controls or holds with power to vote ten per
5 centum or more of the voting stock of any licensee, but no person shall
6 be deemed to control a licensee solely by reason of being an officer or
7 director of such licensee or person. The superintendent may in his
8 discretion, upon the application of a licensee or any person who,
9 directly or indirectly, owns, controls or holds with power to vote or
10 seeks to own, control or hold with power to vote any voting stock of
11 such licensee, determine whether or not the ownership, control or hold-
12 ing of such voting stock constitutes or would constitute control of such
13 licensee for purposes of this section.

14 § 363-g. Grounds for suspension or revocation. 1. The superintendent
15 may suspend or revoke any license issued under this article if the
16 superintendent shall find that:

17 (a) the licensee has failed to pay any sum of money lawfully demanded
18 by the superintendent or to comply with any demand, ruling, or require-
19 ment of the superintendent within a reasonable period of time;

20 (b) the licensee has violated any provisions of this article; or

21 (c) any fact or condition exists which, if it had existed at the time
22 of the original application for such license, clearly would have
23 warranted the superintendent in refusing originally to issue such
24 license.

25 2. The superintendent may on good cause shown, without notice or hear-
26 ing, suspend any license for a period not exceeding thirty days, pending
27 investigation.

28 3. Any licensee may surrender any license by delivering to the super-
29 intendent written notice that the licensee thereby surrenders such
30 license, but such surrender shall not affect such licensee's civil or
31 criminal liability for acts committed prior to such surrender.

32 4. No revocation or suspension or surrender of any license shall
33 impair or affect the obligation of any pre-existing lawful contract
34 between the licensee and any borrower.

35 5. Every license issued pursuant to this article shall remain in force
36 and effect until it shall have been surrendered, revoked, or suspended
37 in accordance with the provisions of this article, but the superinten-
38 dent shall have authority to reinstate suspended licenses or to issue
39 new licenses to a licensee whose license or licenses shall have been
40 revoked if no fact or condition then exists which clearly would have
41 warranted the superintendent in refusing originally to issue such
42 license under this article.

43 6. Whenever the superintendent shall revoke or suspend a license
44 issued pursuant to this article, the superintendent shall execute a
45 written order to that effect. The superintendent shall file one copy of
46 such order in the office of the department and serve a copy upon the
47 licensee, such order may be reviewed in the manner provided by article
48 seventy-eight of the civil practice law and rules. Such special proceed-
49 ing for review as authorized by this section must be commenced within
50 thirty days from the date of such order of suspension or revocation.

51 § 363-h. Examinations. For the purpose of discovering violations of
52 this article or securing information lawfully required under this arti-
53 cle, the superintendent may at any time, and as often as may be deter-
54 mined, either personally or by a person duly designated by the super-
55 intendent, investigate the business and examine the books, accounts,
56 records, and files used therein of every licensee in connection with the

1 activity covered under this article. For that purpose the superintendent
2 and duly designated representatives shall have free access to the
3 offices and place of business, books, accounts, papers, records, files,
4 safes and vaults of all such licensees. The superintendent shall have
5 authority to require the attendance of and to examine under oath all
6 persons whose testimony may be required relative to such business.

7 § 363-i. Books and records. 1. The licensee shall keep and use in its
8 business such books, accounts, and records as will enable the super-
9 intendent to determine whether such licensee is complying with the
10 provisions of this article and with the rules and regulations lawfully
11 made by the superintendent pursuant to this article. Every licensee
12 shall preserve such books, accounts, and records for at least two years
13 after the last payment on any account was made or two years after an
14 account is written off as a loss. Preservation of photographic repro-
15 duction thereof or records in photographic form, including an optical
16 disk storage system and the use of electronic data processing equipment
17 that provides comparable records to those otherwise required and which
18 are available for examination upon request shall constitute compliance
19 with the requirements of this section.

20 2. Each licensee shall annually on or before the first day of April
21 file a report with the superintendent giving such information as the
22 superintendent may require concerning the business and operations during
23 the preceding calendar year of each licensed place of business conducted
24 by such licensee within the state under authority of this article. Such
25 report shall be subscribed and affirmed as true by the licensee under
26 the penalties of perjury and shall be in the form prescribed by the
27 superintendent who shall make and publish annually a consolidated state-
28 ment of condition showing the combined assets and liabilities of all
29 licensed lenders. Such consolidated statement of condition shall be
30 based upon the information contained in such reports. In addition to
31 annual reports, the superintendent may require such additional regular
32 or special reports as may be deemed necessary to the proper supervision
33 of licensees under this article. Such additional reports shall be in the
34 form prescribed by the superintendent and shall be subscribed and
35 affirmed as true under the penalties of perjury.

36 § 363-j. Advertising. 1. No licensee shall advertise, print, display,
37 publish, distribute, or broadcast or cause or permit to be advertised,
38 printed, displayed, published, distributed, or broadcasted, in any
39 manner whatsoever any statement or representation with regard to the
40 rates, terms, costs or conditions for a commercial financing product
41 which is false, misleading or deceptive.

42 2. No licensee shall make, directly or indirectly, orally or in writ-
43 ing, by any method, practice or device, any representation that it is
44 licensed under this article, except a representation that such licensee
45 is licensed as a licensed commercial financing provider by the depart-
46 ment.

47 3. No licensee shall transact any business subject to this article
48 under any other name or at any other place of business than that named
49 in the license, except as may be authorized by the superintendent.

50 § 363-k. Prohibited practices of licensees. 1. No licensee shall take
51 any confession of judgment or any power of attorney running to himself
52 or to any third person to confess judgment or to appear for the borrower
53 in a judicial proceeding.

54 2. No licensee shall take any instrument in which blanks are left to
55 be filled in after execution.

1 § 363-l. Penalties. 1. Any commercial financing product made by a
2 person not licensed under this article, and not exempt, to a business or
3 commercial enterprise located in this state shall be void, and the
4 provider shall have no right to collect or receive any principal, inter-
5 est, fees or charges whatsoever. No action to enforce a transaction made
6 in violation of this subdivision may be maintained.

7 2. Any person or other entity including the officers, directors,
8 agents, and employees thereof, which shall violate or participate in the
9 violation of any of the provisions of section three hundred sixty-three
10 of this article shall be guilty of a misdemeanor.

11 § 363-m. Minority- and women-owned business protection program. 1.
12 Legislative findings. (a) The American Rescue Plan Act of 2021 is a one
13 trillion nine hundred billion dollar economic stimulus legislation pack-
14 age passed by congress and signed into law by president Joseph Biden on
15 March eleventh, two thousand twenty-one.

16 (b) Many local small businesses including minority- and women-owned
17 businesses (MWBE's) in our state did not receive any federal funding
18 under the federal paycheck protection program (PPP).

19 (c) As New York state is reopening regionally post COVID-19, many of
20 our MWBE's who did not receive PPP funding are in desperate need of
21 funding to employ and/or pay staff, purchase inventory and pay rent and
22 utilities.

23 (d) MWBE's have historically had difficulty accessing credit on
24 reasonable terms and have been denied access to credit.

25 2. Establishment and initial funding. (a) Notwithstanding any
26 provision of law to the contrary, the legislature and the empire state
27 development corporation shall establish the minority- and women-owned
28 business (MWBE) development and lending program to be funded in the
29 initial amount of one hundred million dollars from funds received pursu-
30 ant to the American Rescue Plan Act of 2021 and state appropriations.
31 Funds received pursuant to the American Rescue Plan Act of 2021 shall be
32 used to reimburse any monies appropriated by the state for the purposes
33 described under subdivision four of this section.

34 (b) In addition to such initial funding, ongoing funding for such
35 program shall come from at least fifty percent of the fees collected
36 from licensees or entities that are required to be licensed under this
37 article. Such funds may be used to fund ongoing grants to MWBE's that
38 are unable to access credit at reasonable costs.

39 (c) Any licensee offering a commercial financing product through a
40 contract or arrangement with any banking organization or federal credit
41 union organized under the laws of another state, under which such bank-
42 ing organization or federal credit union originates the commercial
43 financing product, shall report the total volume of such commercial
44 financing transactions in each year in New York state to the superinten-
45 dent who shall then set a fee per transaction to fund MWBE development
46 and lending.

47 3. Eligibility. Entities shall be eligible for funding provided such
48 entity:

49 (a) employs less than one hundred employees per workplace;

50 (b) existed in New York state on the first day of the state disaster
51 emergency declared pursuant to executive order two hundred two and any
52 further amendments or modifications thereto;

53 (c) can document actual economic harm, including, but not limited to,
54 a revenue shortfall, as a direct result of the state disaster emergency
55 declared pursuant to executive order two hundred two and any further
56 amendments or modifications thereto; and

1 (d) filed tax returns for calendar year two thousand eighteen, two
2 thousand nineteen, or two thousand twenty.

3 4. Grants. The MWBE protection program shall provide the following
4 grants in an amount equal to sixty percent of the prior year eligible
5 expenses, not to exceed one hundred thousand dollars:

6 (a) a rent reimbursement grant to reimburse qualifying entities for
7 rent paid during the COVID-19 pandemic, provided such entity has docu-
8 mentary proof of such paid rent. Rent reimbursement shall be capped at
9 three months of paid rent during the state of emergency;

10 (b) a perishable inventory grant to reimburse qualifying entities for
11 perishable inventory purchased prior to the state disaster emergency
12 declared pursuant to executive order two hundred two and any further
13 amendments or modifications thereto and discarded due to such executive
14 order;

15 (c) a payroll grant for the compensation of independent contractors
16 who complete the federal tax form 1099; and

17 (d) a utilities grant.

18 5. Oversight. The state comptroller shall monitor the MWBE protection
19 program to ensure the provisions of this section are properly executed.
20 The state comptroller shall submit a report on such program to the
21 governor, the temporary president of the senate and the speaker of the
22 assembly and shall post such report on the comptroller's website on a
23 quarterly basis describing any grants awarded under such program.

24 § 363-n. Study; certain impacts on underbanked and underserved areas.
25 1. The empire state development corporation, in conjunction with the
26 department and any other agency or department deemed necessary shall
27 study the following:

28 (a) The impacts of the COVID-19 pandemic on underbanked and under-
29 served areas, access to loans by small businesses, as such term is
30 defined by section one hundred thirty-one of the economic development
31 law and access to loans by minority- and women-owned business enter-
32 prises, as such terms are defined in subdivisions seven and fifteen of
33 section three hundred ten of the executive law; and

34 (b) The impacts of article eight of the financial services law.

35 2. Topics to examine shall include, but shall not be limited to:

36 (a) the ability of individuals in underbanked and underserved areas to
37 receive, access and use their stimulus payments;

38 (b) changes in the banking habits of individuals in underbanked and
39 underserved areas;

40 (c) closures or changes to bank hours, staffing levels or services in
41 banks in underbanked or underserved areas;

42 (d) the number of small businesses applying for loans, the number of
43 small businesses receiving approval for such loans and the amount of
44 money such small businesses received in loans;

45 (e) the number of minority- and women-owned business enterprises
46 applying for loans, the number of minority- and women-owned business
47 enterprises receiving approval for such loans and the amount of money
48 such minority- and women-owned business enterprises received in loans;

49 (f) the types of loans small businesses and minority- and women-owned
50 business enterprises are applying for and the types of loans such busi-
51 nesses are approved for; and

52 (g) the number of small businesses and minority- and women-owned busi-
53 ness enterprises that closed due to an inability to access or receive
54 loans.

55 3. The department shall analyze any gaps in service to underbanked and
56 underserved areas and the impact of the disclosures required in accord-

1 ance with article eight of the financial services law on small busi-
2 nesses and minority- and women-owned business enterprises. The depart-
3 ment shall provide recommendations to address any such service gaps to
4 ensure individuals living in such areas and businesses operating in such
5 areas can access services.

6 4. The superintendent shall submit the results of these studies and
7 all recommendations to the governor, the temporary president of the
8 senate and the speaker of the assembly and shall publish such results
9 and recommendations on the department's website no later than November
10 first, two thousand twenty-one.

11 5. No licensee or entity that is required to be licensed under this
12 article shall provide any disclosures required by article eight of the
13 financial services law until six months after the completion of the
14 studies commissioned by the superintendent or six months after the
15 superintendent issues regulations under article eight of the financial
16 services law, whichever is later. Such regulations shall account for the
17 results of the studies mandated by this article.

18 § 363-o. Regulations. The superintendent is hereby authorized and
19 empowered to make such general rules and regulations, and such specific
20 rulings, demands, and findings as may be necessary for the proper
21 conduct of the business authorized and licensed under and for the
22 enforcement of this article, in addition hereto and not inconsistent
23 herewith.

24 § 363-p. Severability. If any provision of this article or the appli-
25 cation thereof to any person or circumstances is held to be invalid,
26 such invalidity shall not affect other provisions or applications of
27 this article which can be given effect without the invalid provision or
28 application, and to this end the provisions of this article are severa-
29 ble.

30 § 2. Paragraph 5 of subdivision a of section 10-136 of the administra-
31 tive code of the city of New York, as added by local law number 80 of
32 the city of New York for the year 1996, is amended to read as follows:

33 (5) "Check cashing business" shall mean any person duly licensed by
34 the superintendent of banks to engage in the business of cashing checks,
35 drafts or money orders for consideration pursuant to the provisions of
36 article [~~9-A~~] 9-B of the banking law.

37 § 3. Subdivision (a) of section 22 of the banking law, as amended by
38 chapter 553 of the laws of 2007, is amended to read as follows:

39 (a) Notwithstanding any other provision of law, every applicant for a
40 license, authorization or registration under articles nine, nine-A,
41 nine-B, eleven-B, twelve-B, twelve-C, twelve-D, twelve-E and thirteen-B
42 of this chapter and every applicant filing an application to acquire
43 control of any licensee or registrant, as the case may be, under such
44 articles shall submit simultaneously with an application, his or her
45 fingerprints in such form and in such manner as specified by the divi-
46 sion of criminal justice services, but in any event, no less than two
47 digit imprints. The superintendent shall submit such fingerprints to the
48 division of criminal justice services for the purpose of conducting a
49 criminal history search and returning a report thereon in accordance
50 with the procedures and requirements established by the division pursu-
51 ant to the provisions of article thirty-five of the executive law, which
52 shall include the payment of the prescribed processing fees. The super-
53 intendent shall request that the division submit such fingerprints to
54 the federal bureau of investigation, together with the processing fees
55 prescribed by such bureau, for the purpose of conducting a criminal
56 history search and returning a report thereon. An applicant shall not be

1 required to submit his or her fingerprints as required by this subdivi-
2 sion if such applicant (i) is already subject to regulation by the
3 department and the applicant has submitted such fingerprints to the
4 department, such fingerprints have been submitted to the division of
5 criminal justice services for the purpose of conducting a criminal
6 history search, and a report of such search has been received by the
7 department from such division; or (ii) is subject to regulation by a
8 federal bank regulatory agency and has submitted such fingerprints to
9 such agency which has had a criminal history search conducted of such
10 individual and has shared such information or its determination result-
11 ing from such search with the department; or (iii) is an officer or
12 stockholder of a corporation whose common or preferred stock is regis-
13 tered on a national securities exchange, as provided in an act of
14 congress of the United States entitled the "Securities Exchange Act of
15 1934", approved June sixth, nineteen hundred thirty-four, as amended, or
16 such other exchange or market system as the superintendent shall approve
17 by regulation, and has submitted such fingerprints to such exchange or
18 market system which has had a criminal history search conducted of such
19 individual and has shared such information or its determination result-
20 ing from such search with the department; provided, however, that the
21 superintendent may subsequently require such applicant to submit his or
22 her fingerprints if the superintendent has a reasonable basis for updat-
23 ing the information or determination resulting from the report of the
24 criminal history search conducted at the request of such federal banking
25 agency, exchange or market system.

26 § 4. Subdivision 2 of section 635 of the banking law, as amended by
27 chapter 146 of the laws of 2003, is amended to read as follows:

28 2. "License" when used in this article means any license duly issued
29 by the superintendent pursuant to the provisions of article nine,
30 nine-A, ~~nine-B~~, eleven-B, twelve-B, twelve-C, twelve-D or thirteen-B of
31 this chapter or any registration certificate issued by the superinten-
32 dent pursuant to the provisions of article twelve-D of this chapter.

33 § 5. Subdivision 1 of section 652-b of the banking law, as added by
34 chapter 374 of the laws of 1979, is amended to read as follows:

35 1. It shall be unlawful for any transmitter of money or its officers,
36 affiliates or subsidiaries to enter into an agreement with a check cash-
37 er, licensed pursuant to the provisions of article ~~nine-A~~ ~~nine-B~~ of
38 this chapter, whereby credit is extended to the check casher at the same
39 time as, and on the condition that, the transmitter of money enters into
40 an agreement with the check casher whereby the check casher will (1)
41 sell only the New York instruments or New York traveler's checks of the
42 transmitter of money or (2) agree to the exclusive use of any of the
43 other services of the transmitter of money. This section shall not
44 apply to the issuance by a transmitter of money of a guarantee of any
45 indebtedness of a check casher licensed pursuant to the provisions of
46 article ~~nine-A~~ ~~nine-B~~ of this chapter.

47 § 6. This act shall take effect on the one hundred eightieth day after
48 it shall have become a law. Effective immediately, the addition, amend-
49 ment and/or repeal of any rule or regulation necessary for the implemen-
50 tation of this act on its effective date are authorized to be made and
51 completed on or before such effective date.