STATE OF NEW YORK

8266

2023-2024 Regular Sessions

IN ASSEMBLY

November 15, 2023

Introduced by M. of A. ZACCARO -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to overdraft fees charged by banking organizations

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

Section 1. The banking law is amended by adding a new section 37-b to read as follows:

§ 37-b. Report on overdraft fees. 1. Every banking organization subject to the examination authority of the superintendent shall report annually, on or before March first, to the superintendent on the amount of revenue earned from overdraft fees and non-sufficient funds fees collected in the most recently completed calendar year and the percentage of that revenue as a proportion of the net income of the banking organization. The superintendent shall publish a report containing such data for each organization on the department's internet website.

2. The superintendent shall publish the first report required by this section on or before August thirty-first, two thousand twenty-four, covering data from the two thousand twenty-three calendar year, and annually thereafter by March thirty-first of each year.

3. As used in this section:

(a) "Non-sufficient funds fees" means fees resulting from the initiation of a transaction that exceeds the customer's account balance if the customer's banking organization declines to make the payment.

(b) "Overdraft fees" means fees resulting from the processing of a debit transaction that exceeds a customer's account balance.

§ 2. The banking law is amended by adding a new section 135 to read as follows:

§ 135. Overdraft fees. 1. No banking organization shall impose an overdraft fee or non-sufficient funds fee prior to a period of ten days from the date of the subject transaction during which time period the

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

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member may deposit funds in an amount sufficient to cover the transaction.

2. For the purposes of this section:

(a) "Non-sufficient funds fees" means fees resulting from the initiation of a transaction that exceeds the customer's account balance if the customer's bank or trust company declines to make the payment.

(b) "Overdraft fees" means fees resulting from the processing of a debit transaction that exceeds a customer's account balance.

§ 3. Section 456 of the banking law is amended by adding a new subdivision 10 to read as follows:

10. (a) Impose an overdraft fee or non-sufficient funds fee prior to a period of ten days from the date of the subject transaction during which time period the member may deposit funds in an amount sufficient to cover the transaction.

(b) For the purposes of this subdivision:

(i) "Non-sufficient funds fees" means fees resulting from the initiation of a transaction that exceeds the customer's account balance if the customer's bank or credit union declines to make the payment.

(ii) "Overdraft fees" means fees resulting from the processing of a debit transaction that exceeds a customer's account balance.

§ 4. The banking law is amended by adding a new section 6-q to read as follows:

§ 6-q. Improper practices relating to the imposition of certain fees. 1. No banking organization shall charge overdraft fees on debit card transactions that do not exceed the account's positive balance in cases where a subsequent, unrelated transaction lowers the consumer's available balance to below the amount of the original charge when the original transaction is presented for settlement.

2. A fee for an overdraft protection transfer, where such service is available and enrolled in by the consumer, may only be charged when the transfer amount is sufficient to cover an overdraft transaction. If the amount transferred from another account of the consumer is not sufficient to prevent an overdraft, then the banking organization may only charge a single fee for the overdraft transaction and may not charge a second fee for a transfer of funds which is insufficient to prevent the overdraft.

3. Institutions shall not charge more than one non-sufficient funds fee per transaction, regardless of how many times that transaction is re-presented for payment by a merchant. Banking organizations shall update associated software, or require the software update of their third-party service providers, in order to prevent multiple fees from being charged for a single transaction in violation of this subdivision.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law.