

# STATE OF NEW YORK

5531

2023-2024 Regular Sessions

## IN SENATE

March 7, 2023

Introduced by Sen. THOMAS -- 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 non-bank automated teller machines

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 2-AAA to  
2 read as follows:

3 ARTICLE II-AAA  
4 NON-BANK ATM REGISTRATION

5 Section 76-a. Definitions.  
6 76-b. Responsibilities.  
7 76-c. Registration.  
8 76-d. Required disclosures.  
9 76-e. Penalties.  
10 76-f. Examination of books.  
11 76-g. Suspension or revocation of registration.  
12 76-h. Treatment of fees.  
13 76-i. Rules and regulations.

14 § 76-a. Definitions. For purposes of this article, the following terms  
15 shall have the following meanings:

16 1. "Non-bank automated teller machine" or "non-bank ATM" means any  
17 automated teller machine that is not under the dominion and control of a  
18 state or federally chartered bank, trust company, savings bank, savings  
19 and loan association or credit union.

20 2. "Operate" means to own, lease or otherwise legally control a non-  
21 bank ATM.

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

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1 3. "Operator" means the person who owns, leases, or otherwise legally  
2 controls a non-bank ATM and is responsible for registering the non-bank  
3 ATM.

4 § 76-b. Responsibilities. 1. A person shall not operate a non-bank ATM  
5 in this state unless that person registers the non-bank ATM with the  
6 superintendent.

7 2. Operators shall not charge a transaction fee in excess of the rate  
8 set by the superintendent.

9 3. Non-bank ATMs must be operated in compliance with the federal Elec-  
10 tronic Funds Transfer Act, Anti Money Laundering Act, Bank Secrecy Act,  
11 and the ATM safety act under article two-AA of this chapter.

12 § 76-c. Registration. 1. Operators must register any non-bank ATM with  
13 the superintendent on a registration form established by the superinten-  
14 dent that contains such information as the superintendent may require,  
15 including at a minimum:

16 (a) the operator's name, address, and telephone number;

17 (b) the name and address of where the non-bank ATM is located;

18 (c) the types of transactions available;

19 (d) the processor's name, address, and telephone number;

20 (e) the servicing agent's name, address, and telephone number;

21 (f) the name, title, address, and telephone number of the person  
22 completing the registration; and

23 (g) any other information required by the superintendent.

24 2. The operator shall pay to the superintendent a registration fee as  
25 prescribed pursuant to section eighteen-a of this chapter.

26 3. After the initial registration, the operator shall bi-annually  
27 submit to the superintendent a registration renewal and registration  
28 fee.

29 4. The operator shall promptly notify the superintendent in writing:

30 (a) of any changes to the information required in subdivision one of  
31 this section; or

32 (b) if the operation of the non-bank ATM is terminated.

33 5. The certificate of registration issued shall not be transferable  
34 from one operator to another operator or from one location to another.  
35 If the operator of the non-bank ATM changes, the new operator must  
36 re-register the non-bank ATM with the superintendent.

37 § 76-d. Required disclosures. 1. An operator shall clearly and  
38 conspicuously disclose on a sign posted on the non-bank ATM or in clear  
39 view of the non-bank ATM:

40 (a) the name of the operator;

41 (b) the name, address, and telephone number where a customer may  
42 direct inquiries or complaints;

43 (c) a statement that the department is responsible for the operator's  
44 compliance with state law and the address and telephone number for the  
45 department; and

46 (d) that a fee may be assessed by the operator.

47 2. An operator may not charge a fee for the use of the non-bank ATM  
48 that exceeds the rate permitted under section seventy-six-b of this  
49 article. An operator shall clearly and conspicuously disclose the fee  
50 during the course of the transaction in a manner that permits the  
51 customer to cancel the transaction without incurring the fee.

52 3. A non-bank ATM must provide a receipt for the transaction that  
53 includes the following information in a clear and conspicuous manner:

54 (a) the amount of the transaction;

55 (b) the amount of any fee imposed by the operator;

1 (c) the total amount debited to the customer's account, including any  
2 fee imposed by the operator;

3 (d) the date and time of the transaction;

4 (e) a number or code that identifies the customer and account  
5 accessed; and

6 (f) the location of the non-bank ATM.

7 § 76-e. Penalties. Any operator who violates any provision of this  
8 article or any rule adopted by the superintendent is subject to the  
9 following:

10 1. For the first violation of this article, a civil penalty up to five  
11 hundred dollars shall be imposed; and

12 2. For second and subsequent violations, a civil penalty up to one  
13 thousand dollars shall be imposed for each single violation.

14 § 76-f. Examination of books. 1. The superintendent may at any time,  
15 and as often as may be determined, either personally or by a person duly  
16 designated by the superintendent, make investigations and examine the  
17 books, accounts, records, and files of an operator to determine compli-  
18 ance with this article. For that purpose the superintendent and duly  
19 designated representatives shall have free access to the offices and  
20 place of business, books, accounts, papers, records, files, safes and  
21 vaults of all such operators. The superintendent shall have authority to  
22 require the attendance of and to examine under oath all persons whomsoe-  
23 ver whose testimony may be required.

24 2. In the event of such investigation or examination, the operator  
25 shall pay the reasonable costs and expenses of the investigation or  
26 examination as determined by the superintendent.

27 § 76-g. Suspension or revocation of registration. After notice and  
28 hearing, the superintendent may revoke or suspend an operator's regis-  
29 tration to operate a non-bank ATM if the superintendent finds that:

30 1. The operator has knowingly violated any provision of this article,  
31 any rule or regulation promulgated by the superintendent under and with-  
32 in the authority of this article, or any other applicable law; or

33 2. The operator does not cooperate with an examination or investi-  
34 gation by the superintendent.

35 § 76-h. Treatment of fees. The aggregate of fees, examination expense  
36 reimbursement and other payments made pursuant to this article are  
37 appropriated for the use of the superintendent.

38 § 76-i. Rules and regulations. In addition to such powers as may  
39 otherwise be prescribed by law, the superintendent is hereby authorized  
40 and empowered to promulgate such rules and regulations as may in the  
41 judgement of the superintendent be consistent with the purposes of this  
42 article, or appropriate for the effective administration of this arti-  
43 cle.

44 § 2. This act shall take effect on the ninetieth day after it shall  
45 have become a law; effective immediately, the addition, amendment and/or  
46 repeal of any rule or regulation necessary for the implementation of  
47 this act on its effective date are authorized to be made and completed  
48 on or before such effective date.