STATE OF NEW YORK

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2023-2024 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. GUNTHER, McDONALD, BURDICK, WEPRIN, TAYLOR -- read once and referred to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Banks in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law and the civil practice law and rules, in relation to licensing consumer debt collectors

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 article 7 to read as follows:

ARTICLE VII
LICENSED CONSUMER DEBT COLLECTORS

§ 295. Definitions. As used in this article:

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

LBD03040-11-4

1. "Affiliated company" means a consumer debt collector operating under the control of a licensee, provided that the affiliated company shares common facilities, management, and operations with the licensee and the affiliated company does not engage in any collection activities other than debt buying or debt collection for the licensee.

2. "Applicant" means a consumer debt collector who has filed an application to obtain a license under this article.

3. "Attorney-at-law" and "law firm" means any attorney-at-law or law firm retained by a client for the purpose of litigation and representing such client through activities that may only be performed by a licensed attorney, including acting pursuant to law or regulation by contacting a consumer debtor in the course of the representation regarding anticipated, pending, or previous litigation.

4. "Communication" and "communicate" means the conveying of information regarding a consumer debt directly or indirectly to any person through any medium.

5. "Consumer debt" means any obligation of a natural person for the payment of money or its equivalent which arises out of a transaction which was primarily for personal, family, or household purposes. The term includes an obligation of a natural person who is a co-maker, endorser, guarantor or surety of such a transaction.

6. "Consumer debtor" means any natural person who owes or is asserted to owe any consumer debt.

7. "Consumer debt collector" means any person who engages in a business, a principal purpose of which is consumer debt buying, or regularly collecting or attempting to collect, directly or indirectly, consumer debts: (a) owed or due or asserted to be owed or due to another person; or (b) obtained by or assigned to such person that are in default when obtained or acquired by such person. The term includes any creditor who, in the process of collecting its own consumer debts, and uses any name other than its own which would reasonably indicate that a third person is collecting or attempting to collect a consumer debt.

8. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, except a commercial contract for goods or non-management services, or otherwise. Control shall be presumed to exist if any person directly or indirectly owns, controls or holds with the power to vote ten percent or more of the voting securities of any other person.

9. "Creditor" means any person to whom a consumer debt is owed, due or asserted to be due or owed, or any assignee for value of said person.

10. "Licensee" means a consumer debt collector that possesses one or more licenses pursuant to this article.

11. "Person" means a natural person or any entity, including but not limited to any partnership, corporation, limited liability company, branch, agency, association, organization, any similar entity or any combination of the foregoing acting in concert.

§ 296. License required; entities exempt. 1. No person shall act within this state as a consumer debt collector, directly or indirectly, without first obtaining a license from the superintendent. A consumer debt collector is acting within this state if it is physically located in New York or if it is seeking to collect from any consumer debtor that resides within this state.

2. No creditor, or the state or municipality of the state, may utilize the services of a consumer debt collector to collect from a consumer

debtor that resides within this state unless the consumer debt collector is licensed by the superintendent.

3. No person shall accept payments from consumer debtors on behalf of a consumer debt collector acting within this state unless such consumer debt collector is licensed by the superintendent.

4. The requirements of subdivisions one, two and three of this section shall not apply to:

(a) any officer or employee of a licensed consumer debt collector when attempting to collect on behalf of such consumer debt collector;

(b) any officer or employee of a creditor while in the name of the creditor collecting debts for such creditor;

(c) any public officer acting in their official capacity;

(d) a person who is principally engaged in the business of servicing loans or accounts which are not delinquent for the owners thereof when in addition to requesting payment from delinquent consumer debtors, the person provides other services including receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent;

(e) any person while serving or making a bona fide attempt to serve legal process on any other person in connection with the judicial enforcement of any debt;

(f) any non-profit organization which, at the request of a consumer debtor, performs bona fide consumer credit counseling and assists customers in the liquidation of their debts by receiving payments from such consumer debtors and distributing such amounts to creditors;

(g) any bank, trust company, savings banks, savings and loan association, credit union, or foreign banking corporation, whether incorporated, chartered, organized or licensed under the laws of this state, any other state, or the United States, any agency or division of the federal government, or any insurer doing business under a license issued under the insurance law;

(h) a subsidiary or affiliate of any bank, trust company, savings banks, savings and loan association, credit union, or foreign banking corporation, whether incorporated, chartered, organized or licensed under the laws of this state, any other state, or the United States, any agency or division of the federal government, or any insurer doing business under a license issued under the insurance law, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent consumer debt secured by real property;

(i) any person engaged in business, the principal purpose of which is to regularly collect or attempt to collect debts owed or due or asserted to be owed or due to another person where the debt is enforced for child support, spousal support, maintenance or alimony, provided, however, that if such person also regularly collects or attempts to collect debts other than those enforced for child support, spousal support, maintenance or alimony, such person must comply with the requirements of this article;

(j) any person while acting as a consumer debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a consumer debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of consumer debts;

(k) any attorney-at-law or law firm;

(l) any person employed by a utility regulated under the provisions of the public service law, acting for such utility;

(m) any person collecting or attempting to collect any consumer debt owed or due or asserted to be owed or due another to the extent such activity: (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow agreement; (ii) concerns a consumer debt which was originated by such person; or (iii) concerns a consumer debt which was not in default at the time it was obtained by such person as a secured party in a commercial credit transaction involving the creditor; and

(n) any officer or employee of the United States, any state thereof or any political subdivision of any state to the extent that collecting or attempting to collect any debt owed is in the performance of their official duties.

§ 297. Application for license; fees. 1. (a) An application for a license under this article shall be in writing, under oath, and in the form prescribed by the superintendent and shall contain such information related to the collection of consumer debts as the superintendent may require. In addition to any other information required, the superintendent shall require the following information, and shall, as appropriate, require such information not only of the applicant but also of any of its principals, partners, officers and directors, or any person or entity controlling an interest greater than ten percent:

(i) the name and residence address of the applicant;

(ii) the business name, if other than the applicant;

(iii) the place, including the city, town or village, with the street and number, where the business is to be located;

(iv) the business telephone of the applicant;

(v) the length of time that the applicant has been a consumer debt collector;

(vi) a statement indicating whether the applicant has:

(A) been convicted of any crime or is a debtor on any unpaid civil judgment relating to work as a consumer debt collector; and

(B) at any time in the past been issued a license pursuant to this article, or has been issued a license for debt collection activities by any other state or local authority, and if so, whether such license was ever revoked or suspended;

(vii) a list of certifications issued to the consumer debt collector by nonprofit trade associations;

(viii) unless the consumer debt collector is certified by a nonprofit trade association recognized by the superintendent as having standards that address the following requirements, a detailed description of the business practices or methods used, or intended to be used, by the applicant to confirm the validity of the debts it seeks to collect from consumers;

(ix) unless the consumer debt collector is certified by a nonprofit trade association recognized by the superintendent as having standards that address the following requirements, a summary of the applicant's record-keeping policy, including, but not limited to:

(A) the length of time the applicant maintains, or intends to maintain, records pertaining to consumers; and

(B) the manner in which the applicant records and stores, or intends to record and store: consumer challenges to the validity of debt; billing errors; payments made by a consumer; settlement agreements; information regarding parties responsible for debt; any statements made by a consumer alleging that the debt arose from identity theft; and any statements made by a consumer stating that the consumer received statutorily exempt income as defined in section fifty-two hundred twenty-two of the civil practice law and rules;

(x) whether the applicant regularly sells, or intends to sell, consumer debts. If the applicant sells, or intends to sell consumer debts, such applicant shall be required to provide the superintendent with a summary of the applicant's policy with respect to the information regarding a consumer's account that it transmits, or will transmit, to the purchaser of a consumer debt, unless the consumer debt collector is certified by a nonprofit trade association recognized by the superintendent as having standards that address this requirement;

(xi) a sworn statement by the applicant that the information set forth in the application is current and accurate; and

(xii) the name of each affiliated company the applicant wishes to include on the license.

(b) The superintendent may reject an application for a license or an application for the renewal of a license if such superintendent is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which the application for a license is filed will be operated lawfully, honestly and fairly.

2. At the time of making the application for a license, the applicant shall pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for each proposed location, for investigating the application.

3. In addition to any other fee imposed on an applicant or licensee, every licensee shall pay to the superintendent the sums provided to be paid under the provisions of section two hundred six of the financial services law.

4. The license shall be for a period of two years as of the first of January each year, or such other date as determined by the superintendent by regulation.

5. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the place where the business is to be carried on. A licensee shall not change the location where the business of the licensee is to be carried on without first providing written notice to the superintendent. The relocation notice shall be in writing setting forth the reason for the relocation, and shall be accompanied by a relocation investigation fee to be determined pursuant to section eighteen-a of this chapter.

6. The business shall at all times be conducted in the name of the licensee as it appears on the license and in no other name, including a shortened or abbreviated version thereof. The superintendent may permit affiliated companies to be under a single license and subject to a single examination as long as all of the affiliated company names are on the license.

7. The license shall not be transferable nor assignable.

8. The superintendent may participate in a multi-state licensing system for the sharing of regulatory information and for the licensing and application, by electronic or other means, of entities engaged in the business of consumer debt collection. The superintendent may establish requirements for participation by an applicant in a multi-state licensing system which may vary from the provisions of this section. The superintendent may require a background investigation of each applicant

for a consumer debt collector license by means of fingerprint, which shall be submitted by all applicants simultaneously with an application and which the superintendent may submit to the division of criminal justice services and the federal bureau of investigation for state and national criminal history record checks. If the applicant is a partnership, association, corporation or other form of business organization, the superintendent may require a background investigation for each member or shareholder holding more than five percent ownership, board director and principal officer of the applicant and any individual acting as a manager of an office location. The applicant shall pay directly to the multi-state licensing system any additional fees relating to participation in the multi-state licensing system.

9. The superintendent shall issue each consumer debt collector a unique license number.

10. The department shall maintain and publish a registry of all licensed consumer debt collectors, which shall list and identify, all licensed consumer debt collectors doing business in this state. The department shall make the registry available on its website.

11. Each consumer debt collector engaged in collecting consumer debts shall communicate their license number upon the request of any interested party. Any advertisement, letterhead, receipt or other printed matter of a licensee must contain the license number assigned to the licensee by the department. Such license number shall be clearly and conspicuously displayed in no less than a ten-point font.

12. No person shall: (a) present, or attempt to present, as their or its own, the license number of another;

(b) knowingly give false evidence of a material nature to the department for the purpose of procuring a license;

(c) falsely represent themselves to be a licensed consumer debt collector;

(d) use or attempt to use a license which has expired;

(e) offer to perform or perform any collection of consumer debts without having a current license as is required under this article; or

(f) represent in any manner that their or its license constitutes an endorsement of the quality of workmanship or competency of the consumer debt collector.

§ 298. Surety bond required. 1. (a) A consumer debt collector shall be required to file and maintain in force a surety bond in the amount of twenty-five thousand dollars executed by a surety company authorized to transact business in the state by the department as a condition precedent to the issuance or renewal and maintenance of a license under this article.

(b) Recovery against a bond may be made by a person, including the state, who obtains a judgment against the consumer debt collector for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. The total liability imposed on the surety under this section for all breaches of the bond condition is limited to the face amount of the bond. In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of the claims made against the bond or the number of years the bond remained in force.

(c) The bond shall be in a form prescribed by the superintendent.

(d) Any surety issuing a bond pursuant to this section shall be required to provide sixty days' notice to the superintendent prior to the effective date of cancellation or lapse of the bond, and shall provide additional notice to the superintendent upon the date of the cancellation or lapse of such bond. Upon the cancellation or lapse of any surety bond required by this section, the superintendent shall, within five days of such cancellation or lapse, verify that the consumer debt collector holds a surety bond which meets the requirement of this section. The bond shall be continuous in form and run concurrently with the original and each renewal license period unless terminated by the surety company.

§ 299. Examination; books and records; reports. 1. For the purpose of enforcing the provisions of this article and for ensuring the safe and sound operation of the consumer debt collector business, the superintendent may at any time, and as often as may be determined, either personally or by a person duly appointed by the superintendent, investigate the loans, business, business practices, and business methods of any consumer debt collector, and examine the books, accounts, records, and files used therein of every licensee.

2. The superintendent and duly designated representatives and law enforcement officials whose presence is requested by the superintendent shall have free access to the offices and place of business, books, accounts, papers, records, audio recordings, files, safes and vaults of all such licensees wherever located. The superintendent shall have authority to require the attendance of and to examine under oath all persons whomsoever whose testimony may be required relative to such consumer debts, including the purchase, sale and collection thereof, as well as payment processing on such consumer debts, and related business.

3. The superintendent may also address to a licensee, or the officers, employees or agents thereof, any inquiry in relation to its transactions, operations, or conditions, or any matter connected therewith. Every person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of a corporation, as the superintendent shall designate, and affirmed by them as true under the penalties of perjury.

4. Each licensee shall keep and use in its business such books, accounts, and records as will enable the superintendent to determine whether such licensee is complying with the provisions of this article and with the rules and regulations promulgated hereunder. Every licensee shall keep recordings of consumer collection calls and make such recordings available to the superintendent upon request. Every licensee shall preserve such books, accounts, and records, for at least three years after making the final entry regarding a consumer debt. Preservation of photographic reproduction thereof or records in photographic form, including an optical disk storage system and the use of electronic data processing equipment that provides comparable records to those otherwise required and which are available for examination upon request shall constitute compliance with the requirements of this section.

5. Each licensee shall annually, on or before April first, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee within the state under authority of this article. Such report shall be subscribed and affirmed as true by the licensee under the penalties of perjury and shall be in the form prescribed by the superintendent.

6. In addition to annual reports, the superintendent may require such additional regular or special reports as may be deemed necessary to the proper supervision of licensees under this article. Such additional

reports shall be in the form prescribed by the superintendent and shall be subscribed and affirmed as true under the penalties of perjury.

7. The expenses of every examination of the affairs of a consumer debt collector subject to this section shall be borne and paid by the licensee.

§ 300. Prohibited acts. 1. No consumer debt collector that is required to be licensed under this article shall engage in unfair, unconscionable, deceptive, false, misleading, abusive, or unlawful acts or practices.

2. Without limiting the general application of the prohibited acts in subdivision one of this section, it shall be unlawful for any consumer debt collector to:

(a) engage in any act or practice which would be a material violation of the federal Fair Debt Collection Practices Act, any other New York law or federal law regulating consumer debt collection, or any act or practice which would be prohibited under section six hundred one of the general business law if the consumer debt collector was a principal creditor or their agent;

(b) engage or retain the services of any person who, being required to be licensed under this article, does not have a valid license issued by the department; or

(c) cause any act to be done which violates this section.

3. No consumer debt collector licensed under this article shall:

(a) without the prior written or recorded consent of the consumer debtor given directly to the creditor or consumer debt collector or the express permission of a court of competent jurisdiction, a consumer debt collector may not communicate with a consumer debtor in connection with the collection of any consumer debts:

(i) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer debtor. In the absence of knowledge of circumstances to the contrary, a consumer debt collector shall assume that the convenient time for communicating with a consumer debtor is after eight o'clock antemeridian and before nine o'clock postmeridian, local time at the consumer debtor's location. Unless the consumer debtor is known to be in another time zone, the consumer debt collector can rely on the local time of the area code dialed in determining the convenient time for communication;

(ii) if the consumer debt collector knows the consumer debtor is represented by an attorney with respect to such consumer debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the consumer debt collector or unless the attorney consents to direct communication with the consumer debtor;

(iii) at a place known to be the consumer debtor's place of employment unless the consumer debtor is self-employed, or as otherwise authorized by 12 CFR Part 1006; or

(iv) by means of electronic communications, except as authorized by 12 CFR Part 1006.

(b) communicate with a consumer debtor by postcard;

(c) continue communication with a consumer debtor after the consumer debt collector's first communication if the consumer debt collector fails to send the consumer debtor a notice in writing within five days of that first communication, which such notice shall be promulgated by the superintendent;

(d) continue to communicate with a consumer debtor about a consumer debt that the consumer debtor disputes without providing the consumer debtor with data or documents that verify the disputed consumer debt; or

(e) utilize a service or technology that intentionally causes the telephone network to indicate to the receiver of a call that the originator of the call is a station other than the true originating station for the purpose of collecting a consumer debt.

§ 301. Regulations; minimum standards. The superintendent may promulgate rules and regulations giving effect to the provisions of this article. Such rules and regulations may include but shall not be limited to the establishment of minimum standards to be observed by consumer debt collectors acting within this state and further defining acts and practices which are unfair, unconscionable, deceptive, false, misleading, abusive, or unlawful under section three hundred of this article.

§ 302. Application for acquisition of control of a consumer debt collector. 1. No person shall acquire control of a licensee under this article without the prior approval of the superintendent.

2. Any person desirous of acquiring such control shall make written application to the superintendent, such application shall be in such form and shall contain such information, including the information required under section two hundred ninety-seven of this article, as the superintendent may require and such person, at the time of making such application if not licensed, shall pay to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter.

3. In determining whether to approve or deny an application under this section, the superintendent shall consider:

(a) whether the financial responsibility, experience, character, and general fitness of the person seeking to acquire control, and of the members thereof if such person be a partnership or association, and of the officers, directors and controlling stockholders thereof if such person be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article;

(b) the effect the acquisition may have on competition; and

(c) whether the acquisition may be hazardous or prejudicial to consumer debtors or creditors in this state.

4. If no such application has been made prior to the acquisition of control, the license for each place of business maintained and operated by the licensee shall, at the discretion of the superintendent, become null and void and each such license shall be surrendered to the superintendent.

§ 303. Suspension and revocation. 1. In addition to any other power provided by law, the superintendent may suspend or revoke the license of a consumer debt collector, if after notice and an opportunity to be heard, the superintendent finds that a consumer debt collector has:

(a) committed any fraud, engaged in any dishonest activities or made any misrepresentation;

(b) materially violated any provisions of this chapter or any regulation issued pursuant thereto, or has materially violated any other law in the course of its or their dealings as a consumer debt collector;

(c) made a false statement or material omission in the application for or renewal of a license under this article or failed to give a true reply to a question in such application; or

(d) demonstrated incompetency or untrustworthiness to act as a consumer debt collector.

2. The department shall before revoking or suspending any license and at least fifteen days prior to the date set for the hearing, and upon due notice to the complainant or objector, notify in writing the holder of such license, of any charge made and shall afford such licensee an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served personally to the licensee, or by certified mail to the last known business address of such licensee.

§ 304. Bad actors. 1. In addition to any other power provided by law, the superintendent may require any licensee to remove any director, officer or employee or to refrain from engaging or retaining any independent contractor or service provider if such director, officer, employee, independent contractor or service provider has themselves had a license under this chapter suspended or revoked, or has caused the licensee to violate any provision of this chapter or regulations promulgated thereunder.

2. No person that is the subject of an order under this section removing them as a director, officer or employee or preventing a licensee from engaging or retaining them as an independent contractor or service provider, shall become engaged with any licensee without obtaining the prior written approval of the superintendent. Nor shall such person fail to disclose that it is the subject of an order under this section to any licensee for which it is acting or seeking to act as a director, officer, employee, independent contractor or service provider.

3. Any consumer debt collector or entity claiming to be a consumer debt collector that is not licensed pursuant to this article and knowingly conducts business involving consumer debt collection shall be required to pay a civil penalty to the department of not more than the lesser of five hundred dollars per attempt to collect a consumer debt or one hundred thousand dollars in total damages in violation of this article.

§ 305. Penalties. 1. In addition to such penalties as may otherwise be applicable by law, including but not limited to the penalties available under section forty-four of this chapter, the superintendent may require a person operating as a consumer debt collector without a license to pay a civil penalty to the department a sum not to exceed five hundred dollars per attempt to collect a consumer debt in violation of this article.

2. Whenever it appears to the attorney general, either upon complaint or otherwise, that any person has engaged in any of the acts or practices stated to be unlawful under this article, the attorney general may bring an action or special proceeding in the name and on behalf of the people of the state of New York to enjoin any violation of this article, to obtain restitution of any moneys or property obtained directly or indirectly by any such violation, to obtain disgorgement of any profits obtained directly or indirectly by any such violation, and to obtain civil penalties of not more than the lesser of five hundred dollars per attempt to collect a consumer debt or one hundred thousand dollars in total damages in violation of this article.

3. Nothing in this article shall limit any statutory or common-law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of any law.

§ 306. Preemption. The provisions of this article shall exclusively govern the licensing of consumer debt collectors in the state of New York notwithstanding the provisions of any other law to the contrary and further, no local law shall be enacted which shall (i) require any

fee or license for the licensure or registration of consumer debt collectors, or (ii) regulate the collection of debt by an attorney-at-law or law firm.

§ 2. Subdivision 10 of section 36 of the banking law, as amended by section 2 of part L of chapter 58 of the laws of 2019, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, **licensed consumer debt collector,** any other person or entity subject to supervision under this chapter**, or the financial services law or the insurance law**, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 3. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by section 4 of part L of chapter 58 of the laws of 2019, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, licensed student loan servicer, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer**, licensed consumer debt collector** or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

§ 4. The opening paragraph of subdivision (a) of section 3218 of the civil practice law and rules, as amended by chapter 311 of the laws of 1963, is amended to read as follows:

Except as provided in section thirty-two hundred one **of this article and subdivision (e) of this section**, a judgment by confession may be entered, without an action, either for money due or to become due, or to secure the plaintiff against a contingent liability in behalf of the defendant, or both, upon an affidavit executed by the defendant;

§ 5. Section 3218 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(e) Prohibition on certain judgments by confession. 1. No judgment of confession may be entered on: (i) any amount due from one or more individuals for personal, family, household, consumer, investment or non-business purposes;

(ii) any amount under two hundred fifty thousand dollars due from any person for any purpose; or

(iii) any amount due from any person that either: (A) is currently not a resident of the state, (B) was not a resident of the state at the time the affidavit authorizing the entry of the judgment of confession was executed, or (C) if not a natural person, does not have a place of business in the state or did not have a place of business in the state at the time the affidavit authorizing the entry of the judgment of confession was executed.

2. Paragraph one of this subdivision shall not apply to a judgment by confession entered or sought to be entered by the state, a domestic municipal corporation or any public officer acting in their official capacity.

§ 6. The civil practice law and rules is amended by adding a new section 5022 to read as follows:

§ 5022. Judgments obtained from unlicensed consumer debt collectors. Any judgment obtained against a consumer debtor by, or on behalf of, a consumer debt collector acting without a license from the superintendent of the department of financial services, when such license is required, in violation of section two hundred ninety-six of the banking law, shall be null and void.

§ 7. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however that sections one, two and three of this act shall take effect January 1, 2027. The superintendent of financial services shall allow any consumer debt collector which submits an application prior to January 1, 2027 to operate pending the approval or denial of the application. 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 on or before such effective date. This act shall not affect the validity of any civil actions or arbitrations commenced or judgments entered prior to January 1, 2027.