

# STATE OF NEW YORK

5519

2023-2024 Regular Sessions

## IN ASSEMBLY

March 16, 2023

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

AN ACT to amend the banking law, in relation to authorizing the department of financial services to promulgate regulations relating to the payment of debit and credit transactions and imposition of related fees by banking organizations

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

Section 1. Section 9-y of the banking law, as added by chapter 398 of the laws of 2021, is amended to read as follows:

§ 9-y. [~~Banking institutions to pay checks drawn therein in order of presentation~~] Order of payment of checks and other debits, insufficient funds charges and return deposit item charges. 1. Order of paying checks. (a) Notwithstanding any law, rule or regulation to the contrary, every banking [~~institution~~] organization that provides checking services to consumer [~~checking~~] accounts shall either pay checks in the order wherein they are received or pay checks from smallest to largest dollar amount for each business day's transactions.

[~~2-~~] (b) If a check is dishonored for insufficient funds and thereafter smaller checks which could be paid are received, the smaller checks shall be honored within amounts on deposit in the subject account.

[~~3-~~] (c) The banking [~~institution~~] organization shall disclose to consumers in writing the order in which checks are drawn. The written disclosure shall be provided to the consumer at the time the account is opened and prior to any change in such policy.

(d) The superintendent shall promulgate rules and regulations necessary for the implementation of this section.

[~~4-~~] 2. Regulation of other consumer account transactions and associated fees. (a) The superintendent shall have the power to prescribe by regulation:

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

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1 i. the manner in which banking organizations process debit and credit  
2 transactions, other than those specified in subdivision one of this  
3 section, for consumer accounts maintained at such organization;

4 ii. the charges that may be imposed in connection with a check drawn  
5 or other written order upon, or electronic transfer sought to be effec-  
6 tuated against, insufficient funds or uncollected balances in a consumer  
7 account, whether or not the banking organization pays such check, writ-  
8 ten order, or electronic transfer;

9 iii. the charges that may be imposed in connection with a check or  
10 other written order received by a banking organization for deposit or  
11 collection drawn against a consumer account and subsequently dishonored  
12 and returned for any reason by the drawee;

13 iv. disclosures provided to consumers regarding the processing of  
14 transactions in a consumer account and the associated fees; and

15 v. alerts, notices, and other disclosures relating to the imposition  
16 or possible imposition of a charge as provided in subparagraphs ii and  
17 iii of this paragraph.

18 (b) In prescribing regulations regarding the manner in which banking  
19 organizations process debit or credit transactions, or the charges that  
20 may be imposed pursuant to subparagraphs ii or iii of paragraph (a) of  
21 this subdivision, the superintendent shall consider, at a minimum, the  
22 following factors:

23 i. the cost incurred by the banking organization, in providing any  
24 services associated with such charges;

25 ii. the competitive position of the banking organization; and

26 iii. the maintenance of a safe and sound banking organization that  
27 protects the public interest.

28 3. Definition. As used in this section, "consumer [~~checking~~] accounts"  
29 means accounts at banking organizations established by natural persons  
30 primarily for personal, family or household purposes.

31 § 2. This act shall take effect immediately.