

# STATE OF NEW YORK

8319

2025-2026 Regular Sessions

## IN ASSEMBLY

May 13, 2025

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

AN ACT to amend the banking law, in relation to limits on overdraft fees charged by certain state chartered banking institutions

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

1 Section 1. Subparagraph ii of paragraph (a) of subdivision 2 and  
2 subdivision 3 of section 9-y of the banking law, subparagraph ii of  
3 paragraph (a) of subdivision 2 as added and subdivision 3 as amended by  
4 chapter 556 of the laws of 2023, are amended to read as follows:

5 ii. the charges that may be imposed in connection with a check drawn  
6 or other written order upon, or electronic transfer sought to be effec-  
7 tuated against, insufficient funds or uncollected balances in a consumer  
8 account, whether or not the banking organization pays such check, writ-  
9 ten order, or electronic transfer; provided, however, that for a banking  
10 organization that is a state chartered banking institution subject to  
11 section nine-q of this article, such charges shall not exceed the great-  
12 er of five dollars or the pro rata share of such banking organization's  
13 total direct costs and charge-off losses for providing non-covered over-  
14 draft credit in the previous year, calculated in accordance with section  
15 nine-q of this article;

16 3. [~~Definition~~] Definitions. As used in this section[~~7~~]: (a)  
17 "[~~consumer~~] Consumer accounts" means accounts at banking organizations  
18 established by natural persons primarily for personal, family or house-  
19 hold purposes.

20 (b) "Non-covered overdraft credit" means overdraft credit that is not  
21 subject to the federal Truth in Lending Act, Regulation Z, 12 C.F.R. §  
22 1026.22.

23 (c) "Overdraft credit" means any consumer credit extended by a banking  
24 organization to pay a transaction from a checking or other transaction  
25 account, other than a prepaid account as such term is defined in 12

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

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1 C.F.R. § 1026.61, held at the banking organization where the customer  
2 has insufficient or unavailable funds in such account. The term "over-  
3 draft credit" includes, but is not limited to, any such customer credit  
4 extended through a transfer from a credit card account or overdraft.

5 § 2. Paragraph (a) of subdivision 8 of section 108 of the banking law,  
6 as amended by chapter 155 of the laws of 2012, is amended and a new  
7 paragraph (e) is added to read as follows:

8 (a) The superintendent shall have the power to prescribe by regulation  
9 (i) the maximum charge which may be imposed in this state by a bank or  
10 trust company in connection with a check or other written order drawn  
11 upon it on insufficient funds, irrespective of whether the instrument is  
12 paid, accepted, or returned by the bank, provided, however, that such  
13 maximum charge shall not exceed the greater of five dollars or the pro  
14 rata share of such bank's or trust company's total direct costs and  
15 charge-off losses for providing non-covered overdraft credit in the  
16 previous year, calculated in accordance section nine-q of this chapter,  
17 and (ii) the maximum charge which may be imposed in this state by a bank  
18 or trust company in connection with a check or other written order  
19 received by it for deposit or collection and subsequently dishonored and  
20 returned for any reason by the drawee.

21 (e) For purposes of this subdivision (i) "non-covered overdraft cred-  
22 it" means overdraft credit that is not subject to the federal Truth in  
23 Lending Act, Regulation Z, 12 C.F.R. § 1026.22, and (ii) "overdraft  
24 credit" means any consumer credit extended by a banking organization to  
25 pay a transaction from a checking or other transaction account, other  
26 than a prepaid account as such term is defined in 12 C.F.R. § 1026.61,  
27 held at the banking organization where the customer has insufficient or  
28 unavailable funds in such account. The term "overdraft credit" includes,  
29 but is not limited to, any such customer credit extended through a  
30 transfer from a credit card account or overdraft.

31 § 3. Section 235-c of the banking law, as added by chapter 361 of the  
32 laws of 1984 and as further amended by section 104 of part A of chapter  
33 62 of the laws of 2011, is amended to read as follows:

34 § 235-c. Regulation of certain charges. 1. The superintendent of  
35 financial services shall have the power to prescribe by regulation (i)  
36 the maximum charge which may be imposed in this state by a savings bank  
37 in connection with a check or other written order drawn upon it on  
38 insufficient funds, irrespective of whether the instrument is paid,  
39 accepted or returned by the bank, provided, however, that such maximum  
40 charge shall not exceed the greater of five dollars or the pro rata  
41 share of such savings bank's total direct costs and charge-off losses  
42 for providing non-covered overdraft credit in the previous year, calcu-  
43 lated in accordance with section nine-q of this chapter, and (ii) the  
44 maximum charge which may be imposed in this state by a savings bank in  
45 connection with a check or other written order received by it for depos-  
46 it or collection and subsequently dishonored and returned for any reason  
47 by the drawee.

48 2. For purposes of this section (i) the term "non-covered overdraft  
49 credit" means overdraft credit that is not subject to the federal Truth  
50 in Lending Act, Regulation Z, 12 C.F.R. § 1026.22, and (ii) the term  
51 "overdraft credit" means any consumer credit extended by a banking  
52 organization to pay a transaction from a checking or other transaction  
53 account, other than a prepaid account as such term is defined in 12  
54 C.F.R. § 1026.61, held at the banking organization where the customer  
55 has insufficient or unavailable funds in such account. The term "over-

1 draft credit" includes, but is not limited to, any such customer credit  
2 extended through a transfer from a credit card account or overdraft.

3 § 4. Subdivision 13 of section 383 of the banking law, as amended by  
4 chapter 63 of the laws of 1992 and as further amended by section 104 of  
5 part A of chapter 62 of the laws of 2011, is amended to read as follows:

6 13. a. To receive and repay demand deposits subject to those  
7 provisions applicable to such deposits, in the case of savings banks  
8 under section two hundred thirty-seven of this chapter, including,  
9 subject to regulation by the superintendent of financial services, the  
10 power to charge for maintaining a demand deposit account or for honoring  
11 checks drawn on or accepting deposits made to such an account.

12 b. The superintendent of financial services shall have the power to  
13 prescribe by regulation [~~a~~] (i) the maximum charge which may be  
14 imposed in this state by a savings and loan association in connection  
15 with a check or other written order drawn upon it on insufficient funds,  
16 irrespective of whether the instrument is paid, accepted or returned by  
17 the bank, provided, however, that such maximum charge shall not exceed  
18 the greater of five dollars or the pro rata share of such savings and  
19 loan association's direct costs and charge-off losses for providing  
20 non-covered overdraft credit in the previous year, calculated in accord-  
21 ance with section nine-q of this chapter, and [~~b~~] (ii) the maximum  
22 charge which may be imposed in this state by a savings and loan associ-  
23 ation in connection with a check or other written order received by it  
24 for deposit or collection and subsequently dishonored and returned for  
25 any reason by the drawee.

26 c. For purposes of this subdivision (i) the term "non-covered over-  
27 draft credit" means overdraft credit that is not subject to the federal  
28 Truth in Lending Act, Regulation Z, 12 C.F.R. § 1026.22, and (ii) the  
29 term "overdraft credit" means any consumer credit extended by a banking  
30 organization to pay a transaction from a checking or other transaction  
31 account, other than a prepaid account as such term is defined in 12  
32 C.F.R. § 1026.61, held at the banking organization where the customer  
33 has insufficient or unavailable funds in such account. The term "over-  
34 draft credit" includes, but is not limited to, any such customer credit  
35 extended through a transfer from a credit card account or overdraft.

36 § 5. The banking law is amended by adding a new section 9-q to read as  
37 follows:

38 § 9-q. Overdraft credit cost and loss calculation. 1. For purposes of  
39 this section:

40 (a) "State chartered banking institution" shall mean any bank, trust  
41 company, private banker, savings bank, savings and loan association,  
42 foreign banking corporation, or credit union.

43 (b) "Previous year" shall mean a period that encompasses, at the  
44 state-chartered banking institution's option, any of the following peri-  
45 ods:

46 (i) The prior calendar year;

47 (ii) Any three hundred sixty-five-day period that begins within the  
48 prior calendar year;

49 (iii) The prior four financial quarters; or

50 (iv) The state chartered banking institution's prior accounting year.

51 2. When calculating the pro rata share of a state chartered banking  
52 institution's total direct costs and charge-off losses for providing  
53 non-covered overdraft credit in the previous year, such state chartered  
54 banking institution shall consider only those costs and charge-off loss-  
55 es specifically traceable to its provision of non-covered overdraft  
56 credit in the previous year. Such costs and charge-off losses include,

1 but are not limited to, its cost of funds, its net charge-off losses,  
2 and operating expenses for its non-covered overdraft credit program.  
3 Such costs and charge-off losses shall not include general overhead  
4 costs or charge-off losses due to unauthorized use, electronic fund  
5 transfer errors, billing errors, returned deposit items, or rescinded  
6 provisional credit.

7 3. A cost or charge-off loss is specifically traceable if it has a  
8 direct relationship to the provision of non-covered overdraft services  
9 and the state chartered banking institution can provide evidence to  
10 demonstrate such direct relationship.

11 4. A charge or combination of charges includes all revenue received in  
12 connection with an overdraft transaction, including, but not limited to,  
13 any extended or sustained overdraft fees, any interest charges on  
14 outstanding overdraft balances, and any other payments the state char-  
15 tered banking institution receives in connection with an overdraft tran-  
16 saction.

17 5. When calculating the pro rata share of its total direct costs and  
18 charge-off losses for providing non-covered overdraft credit in the  
19 previous year, a state chartered banking institution shall include all  
20 non-covered overdraft transactions from the previous year in its calcu-  
21 lation.

22 § 6. This act shall take effect immediately.