STATE OF NEW YORK

10688

IN SENATE

August 26, 2026

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the banking law and the financial services law, in relation to opting the state out of certain provisions of the Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law 96-221

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

Section 1. Legislative findings. The regulation of interest and usury is among the oldest exercises of the states' police powers. New York, in its exercise of that police power, has a substantial and longstanding interest in protecting its residents, its communities, and its economy from excessive interest and evasions of its lending laws. Before the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA) codified federal rate exportation, the law governing an interstate consumer-usury dispute generally favored the jurisdiction in which the consumer resided, entered the transaction, received credit, and incurred the debt. After DIDMCA, that balance shifted, and in addition to national banks benefitting from rate exportation, sections five hundred twenty-one through five hundred twenty-three of the DIDMCA extended specified federal interest-rate authority to certain state-chartered institutions. Section five hundred twenty-five of that act, however, expressly permits a state to provide that it does not want such provisions to apply with respect to loans made in that state. The legislature finds that in pursuit of its longstanding police power to regulate interest and usury in this state, New York elects to not have such provisions apply to consumer credit transactions, including loans, in this state. Further, Congress used different geographic language in sections five hundred twenty-one and five hundred twenty-five. Section five hundred twenty-one refers to the state where the bank is located; section five hundred twenty-five refers to loans made in a state. Accordingly, the legislature finds that the location of an institution and the place where a transaction is made are distinct inquiries. Relatedly, the United States Court of Appeals for the Second Circuit has

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

LBD16307-02-6

recognized, in the context of remote high-cost lending, New York's substantial regulatory interest where consumers apply for loans from New York, receive extensions of credit in New York, and authorize withdrawals from accounts located in New York. The legislature thus additionally finds that a consumer credit transaction may be made in more than one jurisdiction. In remote and digital lending, material portions of a transaction occur in New York when a New York consumer is solicited or applies here, accepts an agreement here, receives funds or access to credit here, incurs indebtedness here, uses a New York payment account, or is serviced or collected from here.

This act exercises an election Congress expressly preserved. It does not regulate the rates charged by a national bank or other federally chartered institution to the extent federal law preempts such regulation. It simply restores otherwise applicable New York law for covered transactions to the fullest extent permitted by federal law.

§ 2. Subdivision 7 of section 14-a of the banking law, as added by chapter 883 of the laws of 1980, is amended to read as follows:

7. (a) Nothing contained in this section nor in any other provision of this act whereunder this section is added to the banking law shall be deemed to prohibit the charging of interest at the rates provided or permitted by United States Public Laws 96-161[~~, 96-221~~] and 96-399, where applicable.

(b) (i) Pursuant to section five hundred twenty-five of the Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law 96-221, the state of New York hereby provides explicitly that the amendments made by sections five hundred twenty-one, five hundred twenty-two and five hundred twenty-three of such act shall not apply with respect to covered consumer credit transactions made in this state on or after the effective date of this paragraph.

(ii) The election made by subparagraph (i) of this paragraph includes, without limitation and to the extent applicable, the federal interest-rate authority codified at section 1831d of title 12 of the United States code and any successor provision derived from sections five hundred twenty-one through five hundred twenty-three of the Depository Institutions Deregulation and Monetary Control Act of 1980.

(iii) This paragraph shall not be construed to affect a loan made pursuant to a commitment entered into before the effective date of this paragraph where federal law requires continued application of such federal interest-rate authority.

§ 3. The financial services law is amended by adding a new article 11 to read as follows:

ARTICLE 11
APPLICABLE INTEREST LIMITATIONS

Section 1101. Definitions.
1102. Transactions made in this state.
1103. Application of New York law.
1104. Enforcement and remedies.

§ 1101. Definitions. For the purposes of this article:

1. "Applicable New York interest limitation" means any maximum rate or other limitation on interest, finance charges, fees or other consideration imposed by the constitution, laws or regulations of this state that would apply to a covered consumer credit transaction in the absence of the federal interest-rate authority described in subdivision seven of section fourteen-a of the banking law.

2. "Consumer" means a natural person who is a resident of this state and to whom credit is offered or extended primarily for personal, family or household purposes.

3. "Consumer credit transaction" means a loan, credit sale, advance, line of credit, open-end consumer credit plan, credit-card account, balance transfer, cash advance or other extension of credit to a consumer. Such term shall not include credit secured by a first lien on real property or a dwelling.

4. "Covered consumer credit transaction" means a consumer credit transaction made in this state for which a covered state-chartered institution or a covered participant asserts, relies upon, or would be entitled in the absence of the election made by subdivision seven of section fourteen-a of the banking law to assert or rely upon, federal interest-rate authority derived from sections five hundred twenty-one through five hundred twenty-three of the Depository Institutions Deregulation and Monetary Control Act of 1980. A transaction is not excluded because it is open-end credit or accessed by a credit card or similar device.

5. "Covered state-chartered institution" means a state-chartered insured depository institution, insured savings association, state-chartered credit union, insured branch of a foreign bank, or other institution within the scope of sections five hundred twenty-one through five hundred twenty-three of the Depository Institutions Deregulation and Monetary Control Act of 1980. Such term does not include a national bank, federal savings association, federal credit union, or other federally chartered institution, except to the extent Congress authorizes application of state law.

6. "Covered participant" means a person other than a consumer that, with respect to a covered consumer credit transaction, markets, solicits, arranges, facilitates, underwrites, funds, services, administers, purchases, acquires, owns a legal or beneficial interest in, securitizes, collects, or enforces such transaction, or receives a material portion of the revenues, interest or fees arising therefrom.

§ 1102. Transactions made in this state. 1. A consumer credit transaction is made in this state when the consumer is a resident of this state at the time the account is opened or the transaction is consummated and one or more material acts necessary to create, fund, use, service, repay, collect or enforce the obligation occurs in this state.

2. Material acts under subdivision one of this section include, but are not limited to:

(a) solicitation, marketing or delivery of an offer to the consumer in this state by any means;

(b) the consumer's submission of an application, acceptance or authorization from this state;

(c) execution, acceptance, formation or delivery of the agreement in this state;

(d) delivery to or receipt by the consumer of funds, purchasing power or access to credit in this state;

(e) the consumer's incurrence of indebtedness or use of credit in this state;

(f) delivery or activation of a credit card or other access device in this state;

(g) billing, servicing, repayment or collection directed to the consumer in this state; or

(h) the use of a deposit account, payment account, payroll account or other account located in this state to receive proceeds or make repayment.

3. A consumer credit transaction may be made in more than one state. A term in an agreement stating that a transaction is made, located or governed exclusively in another jurisdiction shall not control the determination under this section and shall not waive or alter this article.

4. An open-end consumer credit plan, including a credit-card account, is made in this state when the account is opened in accordance with subdivision one of this section. Each advance, purchase, cash advance or balance transfer under an account opened on or after the effective date of this article is part of the covered consumer credit transaction. A consumer's temporary presence outside this state when using such account does not alter the location of the account.

§ 1103. Application of New York law. 1. Notwithstanding any other provision of law, a covered consumer credit transaction made in this state on or after the effective date of this article is subject to the applicable New York interest limitation and to the otherwise applicable laws of this state concerning the charging, taking, receiving, reserving, collection and enforcement of interest.

2. No covered state-chartered institution or covered participant shall charge, take, receive, reserve, collect, attempt to collect or enforce an amount prohibited by the law applicable under subdivision one of this section.

§ 1104. Enforcement and remedies. 1. The superintendent and the attorney general may each enforce this article. In addition to any power provided by law, either may investigate a suspected violation, issue subpoenas, require production of records, seek an injunction, obtain restitution or refund of unauthorized interest or fees, obtain disgorgement, require correction of account and credit-reporting information, and obtain such other equitable relief as a court deems appropriate.

2. After notice and an opportunity to be heard, the superintendent may impose, and a court in an action brought by the attorney general may award, a civil penalty not exceeding two thousand five hundred dollars for each violation or ten thousand dollars for each knowing or willful violation. In determining the amount, consideration shall be given to the seriousness of the violation, consumer harm, good faith, history of previous violations, ability to pay, cooperation and such other matters as justice may require.

§ 4. If any clause, sentence, paragraph, subdivision, section or part of this act or its application to any person or circumstance is adjudged invalid or preempted, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, subdivision, section, part or application that can be given effect without the invalid or preempted provision or application.

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