STATE OF NEW YORK

3332--A

2025-2026 Regular Sessions

IN SENATE

January 24, 2025

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to providing for income access services in the state

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 9-B to read as follows:

ARTICLE IX-B

INCOME ACCESS SERVICES

Section 374-aa. Definitions.
374-bb. License.
374-cc. Action by superintendent on application.
374-dd. License provisions and posting.
374-ee. Grounds for suspension or revocation of license; procedure.
374-ff. Investigations and examinations.
374-gg. Compliance.
374-hh. Advertising.
374-ii. Regulations and rulings.
374-jj. Earned income access data collection and review.
374-kk. Changes in control.
374-ll. Violation and penalties.
374-mm. Books and records; reports.
374-nn. Severability.

§ 374-aa. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Consumer" means an individual who is a resident of the state of New York. A provider may use the mailing address provided by a consumer

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

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to determine the consumer's state of residence for purposes of this chapter.

2. "Debt collection activity" means the business of collection of any debts, directly or indirectly, owed or due or asserted to be owed or due another and the business of a buyer of debts who seeks to collect such debts either directly or indirectly, as well as the business of any creditor collecting its own debts if such creditor uses any name other than its own that would suggest or indicate that someone other than such creditor is collecting or attempting to collect such debts.

3. "Earned but unpaid income" means wages or compensation that have been earned or have accrued to the benefit of a consumer but have not been paid by an obligor to that consumer for labor or services performed for or on behalf of an obligor.

4. "Earned income access cap" means the limit on the amount that may be charged for an earned income access transaction which shall not exceed:

(a) five dollars for a transaction of seventy-five dollars or less; or

(b) seven dollars for a transaction that is more than seventy-five dollars.

5. "Earned income access transaction" means the payment of earned but unpaid income to a consumer at a time other than the consumer's regular payday or other regularly scheduled time on which the obligor pays to the consumer wages or compensation earned or that have accrued to the benefit of such consumer.

6. "Earned income access provider" or "provider" means a person or entity that:

(a) provides, or offers to provide, on behalf of an obligor earned income access transactions to consumers earning wages or compensation from the obligor; or

(b) offers earned income access transactions to, or enters into earned income transactions with, consumers.

7. "Exempt organization" shall mean any banking organization, foreign banking corporation licensed by the superintendent or the comptroller of the currency to transact business in this state, national bank, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state or any instrumentality created by the United States or any state with the power to make mortgage loans. Subject to such regulations as may be promulgated by the superintendent, "exempt organization" may also include any subsidiary of such entities.

8. "Non-recourse" means the unavailability of any legal cause of action or remedy against a consumer relating to an earned income access transaction.

9. "Notice" means communication from the provider to the consumer in a clear and conspicuous manner in writing or electronically.

10. "Obligor" means a person or entity who is obligated to pay a consumer any sum of money on an hourly, project-based, piecework, or other basis for labor or services performed by the consumer for or on behalf of that person or entity. Obligor does not include the customer of an obligor or another third party that has an obligation to make any payment to a consumer based solely on the consumer's agency relationship with the obligor.

11. "Fees" means any amount charged by a provider to a consumer for an earned income access transaction.

12. "Proceeds" means funds received by a consumer pursuant to an earned income access transaction.

§ 374-bb. License. 1. No person or entity, except for an exempt organization as defined in this article, shall engage in the business of providing or offering earned income access transactions to consumers, or enter into an earned income access transaction with a consumer, without first obtaining a license.

2. An application for a license under this article shall be in writing, under oath and in the form prescribed by the superintendent.

3. At the time of filing an application for a license, the applicant shall pay to the superintendent an application fee. The application fee shall be as prescribed pursuant to section eighteen-a of this chapter.

4. A license granted pursuant to this article shall be valid unless revoked or suspended by the superintendent or surrendered by the licensee.

§ 374-cc. Action by superintendent on application. 1. After the filing of an application for a license accompanied by payment of the fees for license and investigation, it shall be substantively reviewed. After the application is deemed sufficient and complete, the superintendent shall issue the license, or the superintendent may refuse to issue the license if the superintendent shall find that the financial responsibility, experience, character and general fitness of the applicant or any person associated with the applicant are not such as to command the confidence of the community and to warrant the belief that the business will be conducted honestly, fairly and efficiently within the purposes and intent of this article. For the purpose of this subdivision, the applicant shall be deemed to include all the members of the applicant if it is a partnership or unincorporated association, and all the stockholders, officers and directors of the applicant if it is a corporation. Such license to engage in business in accordance with the provisions of this article at the location specified in the application shall be executed in triplicate by the superintendent and the superintendent shall transmit one copy thereof to the applicant, file a copy in the office of the department of financial services, and file a copy in the office of the clerk of the county in which is located the place designated in such license.

2. If the superintendent refuses to issue a license, the superintendent shall notify the applicant of the denial, return to the applicant the sum paid as a license fee, but retain the investigation fee to cover the costs of investigating the applicant.

3. Each license issued pursuant to this article shall remain in full force unless it is surrendered by the licensee, revoked or suspended.

§ 374-dd. License provisions and posting. 1. A license issued under this article shall state the name and address of the licensee, and if the licensee be a co-partnership or association, the names of the members thereof, and if a corporation the date and place of its incorporation.

2. Such license shall be kept conspicuously posted in the office of the licensee and on the mobile application or website of the licensee and shall not be transferable or assignable.

§ 374-ee. Grounds for suspension or revocation of license; procedure. 1. A license granted pursuant to this section may not be renewed, and shall be revoked or suspended by the superintendent upon a finding that:

(a) the licensee has not complied with reporting requirements;

(b) the licensee, knowingly or without the exercise of due care to prevent such violation, has violated any provision of this article, the

act of congress entitled "Truth in Lending Act" and the regulations thereunder to the extent deemed applicable to the earned income transaction under federal law by a court of competent jurisdiction, as such act and regulations may from time to time be amended or any rule or regulation lawfully made by the superintendent under and within the authority of this article;

(c) any fact of condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the superintendent's refusal to issue such license; or

(d) the licensee has failed to pay any sum of money lawfully demanded by the superintendent or to comply with any demand, ruling or requirement of the superintendent.

2. Any licensee may surrender any license by delivering to the superintendent notice that the licensee thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

3. Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, suspended, or shall have expired, in accordance with the provisions of this article, but the superintendent shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the superintendent's refusal to issue such license.

4. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, the superintendent shall forthwith execute in triplicate a written order to that effect. The superintendent shall file one copy of such order in the office of the department, file another in the office of the clerk of the county in which is located the place designated in such license and forthwith serve the third copy upon the licensee, which order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized by this section must be commenced within thirty days from the date of such order of suspension or revocation.

5. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, without notice and a hearing, suspend any license issued pursuant to this article for a period not exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist only when the licensee has engaged in or is likely to engage in a practice prohibited by this article or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

§ 374-ff. Investigations and examinations. 1. The superintendent shall have the power to make such investigations as the superintendent shall deem necessary to determine whether any provider or any other person has violated any of the provisions of this article, or whether any licensee has conducted itself in such manner as would justify the revocation of its license, and to the extent necessary therefor, the superintendent may require the attendance of and examine any person under oath, and shall have the power to compel the production of all relevant books, records, accounts, and documents.

2. The superintendent shall have the power to make such examinations of the books, records, accounts and documents used in the business of any licensee as the superintendent shall deem necessary to determine whether any such licensee has violated any of the provisions of this article.

3. The expenses incurred in making any examination pursuant to subdivision two of this section shall be assessed against and paid by the licensee so examined, except that traveling and subsistence expenses so incurred shall be charged against and paid by licensees in such proportions as the superintendent shall deem just and reasonable, and such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination. Upon written notice by the superintendent of the total amount of such assessment, the licensee shall become liable for and shall pay such assessment to the superintendent.

4. All reports of examinations and investigations, and all correspondence and memoranda concerning or arising out of such examinations or investigations, including any duly authenticated copy or copies thereof in the possession of any licensee 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 other material referred to in this subdivision, or any part thereof, in such manner as the superintendent may deem proper.

§ 374-gg. Compliance. 1. An earned income access provider shall not operate in this state unless:

(a) the provider is licensed pursuant to this article, unless the provider is an exempt organization pursuant to this article;

(b) in the event a provider takes custody of a consumer's earned but unpaid income before paying proceeds to the consumer, the provider ensures that the proceeds are fully insured by the Federal Deposit Insurance Corporation at the consumer's individual account level;

(c) the provider complies with applicable provisions of the Electronic Fund Transfer Act, 15 U.S.C. § 1693 et seq. and the regulations thereunder when a debit is initiated to a consumer's account for a payment, and if the debit is returned for insufficient or uncollected funds, the debit is reinitiated only in accordance with paragraph (d) of subdivision two of this section;

(d) the provider complies with all applicable local, state, and federal privacy and information security laws;

(e) the provider offers the consumer at least one reasonable option to obtain proceeds at no cost to such consumer and clearly explains how to elect such no-cost option;

(f) the provider gives notice to the consumer of the costs of earned income transactions in accordance with any rules that the superintendent may promulgate; and

(g) upon request by the consumer, the provider delivers notice to each consumer to whom it has paid proceeds in the quarter when the request is made. Notice shall contain information from that quarter to be prescribed by the superintendent, including but not limited to an itemization of transactions and costs, the total amount the consumer has paid in fees, information on how to report complaints to the provider and to the department of financial services, definitions of terms used in the notice, and an explanation of the costs of the services provided;

2. It is a violation of this article to conduct an earned income access transaction unless:

(a) the transaction is non-recourse;

(b) the provider does not engage in debt collection activity or retain the services of another to engage in debt collection activity in

connection with the earned income access transaction and does not convey the debt itself;

(c) if repayment is to be made through a debit of a consumer's account, the debit is made in accordance with paragraph (c) of subdivision one of this section;

(d) the provider charges a fee for the earned income access transaction that does not exceed the earned income access cap or charges no fee for the earned income access transaction;

(e) no portion of the earned but unpaid income to be paid as part of the earned income access transaction is used before receipt by the consumer to settle or pay down an obligation arising from a prior earned income access transaction, and no proceeds roll over or are structured in any way to create any continuing obligation to the provider on the part of a consumer, provided however that a provider may accept an unpaid amount as a precondition to allow the consumer to continue utilizing the service;

(f) before a consumer enters into the earned income access transaction, the provider gives the consumer notice of all fees associated with the earned income access transaction and the cost of the transaction;

(g) if the provider offers consumers the opportunity to pay an additional amount for an earned income access transaction voluntarily, such as a tip, (i) the provider gives notice to the consumer that paying such additional amount is not required for the consumer to receive the proceeds, and (ii) the provider does not suggest an amount to the consumer by, for example, offering amount options from which the consumer may select or pre-filling an amount in any form used in the transaction process, or otherwise using a transaction process designed to require the consumer to take affirmative action to avoid or opt out of paying such additional amount;

(h) the provider does not charge a late fee or prepayment penalty on the earned income access transaction;

(i) the provider does not pull a credit report or otherwise assess credit risk of the consumer prior to, during, or after the earned income access transaction except that the provider may verify the consumer's source of income as part of determining the amount of the proceeds;

(j) the provider does not report on the earned income access transaction to a consumer reporting agency prior to, during, or after the transaction;

(k) the provider does not require a consumer to waive the right to class action to engage in an earned income access transaction;

(l) the provider gives a consumer notice of any material amendment to the contract or terms of service for earned income access transactions, and the consumer agrees to such amendments before proceeding with an earned income access transaction to which such amendments would apply; and

(m) the consumer is eighteen years of age or older.

3. Transactions made in accordance with this section shall not be subject to usury laws.

4. If a provider charges indirect transaction fees, such fees shall not exceed the earned income access cap.

5. (a) An amount charged to a consumer for a subscription or membership to a product that provides a bona fide group of services that includes earned income access transactions, or an amount paid as described in paragraph (g) of subdivision two of this section, shall not be considered a fee, as such term is defined in subdivision eleven of

section three hundred seventy-four-aa of this article, for purposes of subdivision four of section three hundred seventy-four-aa of this article. For purposes of this article, a "bona fide group of services" that includes earned income access transactions shall mean a group of services in which each of the individual services included is not of nominal value.

(b) The requirements of paragraph (e) of subdivision one of this section shall apply to a provider that offers earned income access transactions as part of a subscription or membership to a product that provides a bona fide group of services.

6. Notwithstanding any provisions of this article or any other law to the contrary, a provider may avail itself of any lawful remedies available to such provider by contract or at law to seek and collect payment of outstanding proceeds, charges, fees, or any other amounts available by contract or law if a consumer provides false information in the course of procuring an earned income access transaction, or received such amounts or proceeds through fraud or other unlawful means. For purposes of this article, "fraud" shall mean a knowing or reckless misrepresentation of the truth to a provider or a third party, or concealment of a material fact either by statement of conduct, by a consumer to induce such provider to enter into an earned income access transaction.

§ 374-hh. Advertising. 1. No advertisement for an earned income access transaction service shall be misleading or otherwise deceptive.

2. An advertisement for earned income access transaction service shall clearly and accurately disclose the costs of the service to consumers.

3. The superintendent shall adopt rules governing advertising of earned income transaction services consistent with the purposes of this section.

§ 374-ii. Regulations and rulings. The superintendent is hereby authorized and empowered to make such rules and regulations, conduct hearings and make such specific rulings, orders, demands and findings as may be necessary for the proper conduct of the business authorized and licensed under and for the enforcement of this article.

§ 374-jj. Earned income access data collection and review. 1. The superintendent shall collect and analyze data from earned income access providers as set forth below.

2. On or before April fifteenth of each year, a licensee shall submit to the superintendent a report containing, as applicable to the licensee:

(a) except as otherwise provided in subdivision four of this section, financial statements for the immediately preceding year that have been audited by an independent certified public accountant;

(b) information about each complaint that has been filed by a user who received earned wage access services in this state in the immediately preceding year against the licensee and a description of the resolution, if any, of each such complaint;

(c) the total amount of charges paid by users for earned wage access services in the preceding year in this state;

(d) the total number of users in this state who did not received earned wage access services in the immediately preceding year but who paid a subscription fee or membership fee imposed by a provider for a bona fide group of services that include earned wage access services, including the total amount of subscription fees and membership fees paid by those users in the immediately preceding year;

(e) the total number of users in this state who participated in twelve or more paid earned wage access transfers provided by the licensee in the immediately preceding year; and

(f) any other information required by the superintendent pursuant to regulations adopted pursuant to this article.

3. If audited financial statements are not available to a licensee on or before April fifteenth in any given year, the licensee may satisfy the requirements of subdivision two of this section by submitting to the superintendent:

(a) unaudited financial statements on or before April fifteenth; and

(b) audited financial statements when such statements become available to the licensee.

4. Except as otherwise provided in this section, all documents and other information filed with the superintendent are confidential and may be disclosed only as the superintendent and the licensee mutually deem necessary to administer the provisions of this section.

5. The superintendent shall annually publish and make available to the public an aggregated and anonymized analysis of the information submitted as required pursuant to this section.

6. (a) Beginning four years from the effective date of this article, the superintendent may set by regulation the earned income access cap, as such term is defined in subdivision four of section three hundred seventy-four-aa of this article, at a level intended to continue to allow consumers in this state access to earned income access services. Before determining such cap, the superintendent shall review all data submitted by licensees, including user tip amounts, and the following publicly available data and submit a written report to the speaker of the assembly, the temporary president of the senate, and the governor detailing such publicly available data, including:

(i) the average cost of a pawn loan;

(ii) the average fees for check cashing;

(iii) the average credit card late fee;

(iv) the average dollar amounts for credit card interest;

(v) the average late fee for a utility bill; and

(vi) the average out-of-network ATM fee.

(b) In addition, the report required in paragraph (a) of this section shall contain:

(i) a recommendation to the legislature on the utility of prohibiting earned income access transactions requested by a consumer within a twenty-four hour period immediately preceding payday. In preparing such recommendation, the superintendent shall receive from licensees and then review the following data from the previous four years:

(A) the number of consumers per year that request an earned income access transaction within twenty-four hours of payday;

(B) the percentage of consumers per year that request an earned income access transaction within twenty-four hours of payday;

(C) the percentage of consumers that report requesting an earned income access transaction within twenty-four hours of payday for the purpose of purchasing food;

(D) the percentage of consumers that report requesting an earned income access transaction within twenty-four hours of payday to pay bills that have come due; and

(E) the percentage of consumers that report requesting an earned income access transaction within twenty-four hours of payday to meet family expenses; and

(ii) a recommendation to the legislature on the appropriateness of continuing to exclude tips and other voluntary payments from the earned income access cap.

§ 374-kk. Changes in control. 1. It shall be unlawful except with the prior approval of the superintendent for any action to be taken which results in a change of control of the business of a licensee. Prior to any change of control, the person desirous of acquiring control of the business of a licensee shall make written application to the superintendent and pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. The application shall contain such information as the superintendent, by rule or regulation, may prescribe as necessary or appropriate for the purpose of making the determination required by subdivision two of this section.

2. The superintendent shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of subdivision one of this section.

3. For a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of one who has control of a licensee. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section. The provisions of subdivisions one and two of this section shall be applicable to an application made under such section by a legal representative.

4. The term "legal representative", for the purposes of this section, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal representative and one acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

5. As used in this section: (a) the term "person" includes an individual, partnership, corporation, association or any other organization, and (b) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a licensee, whether through the ownership of voting stock of such licensee, the ownership of voting stock of any person which possesses such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum or more of the voting stock of any licensee or of any person which owns, controls or holds with power to vote ten per centum or more of the voting stock of any licensee, but no person shall be deemed to control a licensee solely by reason of being an officer or director of such licensee or person. The superintendent may in the superintendent's discretion, upon the application of a licensee or any person who, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such licensee, determine whether or not the ownership, control or holding of such voting stock constitutes or would constitute control of such licensee for purposes of this section.

§ 374-ll. Violation and penalties. 1. Any person, including any member, officer, director or employee of a provider, who violates or participates in the violation of any provision of this article, or who knowingly makes any incorrect statement of a material fact in any application, report or statement filed pursuant to this article, or who know-

ingly omits to state any material fact necessary to give the superintendent any information lawfully required by the superintendent or refuses to permit any lawful investigation or examination, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both, in the discretion of the court.

2. No provider shall make, directly or indirectly, orally or in writing, or by any method, practice or device, a representation that such provider is licensed under the banking law except that a licensee under this chapter may make a representation that the licensee is licensed as an earned income access provider under this chapter.

§ 374-mm. Books and records; reports. 1. The provider shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether such provider is complying with the provisions of this article and with the rules and regulations lawfully made by the superintendent hereunder. Every provider shall preserve such books, accounts and records for at least six years after making the final entry in respect to any earned income access transaction recorded therein; provided, however, the preservation of photographic reproductions thereof or records in photographic form shall constitute compliance with this requirement.

2. By a date to be set by the superintendent, each provider shall annually 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 the provider within the state under the authority of this article. Such report shall be subscribed and affirmed as true by the provider under the penalties of perjury and be in the form prescribed by the superintendent. In addition to such annual reports, the superintendent may require of providers such additional regular or special reports as the superintendent may deem necessary to the proper supervision of providers 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.

§ 374-nn. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity thereof shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

§ 2. Subdivision 1 of section 36 of the banking law, as amended by chapter 146 of the laws of 1961, is amended to read as follows:

1. The superintendent shall have the power to examine every banking organization, every bank holding company and any non-banking subsidiary thereof (as such terms "bank holding company" and "non-banking subsidiary" are defined in article three-A of this chapter) and every licensed lender and licensed earned income access provider at any time prior to its dissolution whenever in [~~his~~] the judgment of such superintendent such examination is necessary or advisable.

§ 3. Subdivisions 3 and 5 of section 37 of the banking law, as amended by chapter 360 of the laws of 1984, are amended to read as follows:

3. In addition to any reports expressly required by this chapter to be made, the superintendent may require any banking organization, licensed lender, licensed earned income access provider, licensed casher of checks, licensed mortgage banker, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company and any non-banking subsidiary thereof, corporate affiliate of a corpo-

rate banking organization within the meaning of subdivision six of section thirty-six of this article and any non-banking subsidiary of a corporation which is an affiliate of a corporate banking organization within the meaning of subdivision six-a of section thirty-six of this article to make special reports to [~~him~~] **the superintendent** at such times as [~~he~~] **such superintendent** may prescribe.

5. The superintendent may extend at [~~his~~] **their** discretion the time within which a banking organization, foreign banking corporation licensed by the superintendent to do business in this state, bank holding company or any non-banking subsidiary thereof, licensed casher of checks, licensed mortgage banker, private banker**, licensed earned income access provider** or licensed lender is required to make and file any report to the superintendent.

§ 4. Section 39 of the banking law, as amended by section 3 of part L of chapter 58 of the laws of 2019, is amended to read as follows:

§ 39. Orders of superintendent. 1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, [~~he or she~~] **the superintendent** may, in [~~his or her~~] **their** discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed mortgage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before [~~him or her~~] **such superintendent**, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, [~~he or she~~] **the superintendent** may, in [~~his or her~~] **their** discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mort-

gage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before [~~him or her~~] **such superintendent** to present any explanation in defense of the practices directed in said order to be discontinued.

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent on any licensed lender, **licensed earned income access provider,** registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, the superintendent may, in the superintendent's discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

4. To make good encroachments on reserves. Whenever it shall appear to the superintendent that either the total reserves or reserves on hand of any banking organization, branch or agency of a foreign banking corporation are below the amount required by or pursuant to this chapter or any other applicable provision of law or regulation to be maintained, or that such banking organization, branch or agency of a foreign banking corporation is not keeping its reserves on hand as required by this chapter or any other applicable provision of law or regulation, [~~he or she~~] **the superintendent** may, in [~~his or her~~] **their** discretion, issue an order directing that such banking organization, branch or agency of a foreign banking corporation make good such reserves forthwith or within a time specified in such order, or that it keep its reserves on hand as required by this chapter.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable [~~him or her~~] **the superintendent** to readily ascertain its true condition, [~~he or she~~] **such superintendent** may, in [~~his or her~~] **their** discretion, issue an

order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, **licensed earned income access provider,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as [~~he or she~~] **the superintendent** may, in [~~his or her~~] **their** discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

6. As used in this section, "bank holding company" shall have the same meaning as that term is defined in section one hundred forty-one of this chapter.

§ 5. 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 earned income access provider,** 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 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.

§ 6. 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.