

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 Assem-
bly, 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.