

BANKING LAW
OF THE
STATE OF NEW YORK

INCLUDING
Amendments made by the Legislature in 2006
up to Chapter 750

Edited by
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§1. Short title.

This chapter, together with amendments thereof, shall be known as the "banking law", and shall be applicable to all corporations, partnerships and individuals defined in the next section and to such other corporations, unincorporated associations, partnerships and individuals as shall subject themselves to special provisions thereof, or who shall, by violating any of its provisions, become subject to the penalties provided therein.

§2. Definitions.

1. Bank. The term, "bank," when used in this chapter, unless a different meaning appears from the context, means any corporation, other than a trust company, organized under or subject to the provisions of article three of this chapter.

2. Trust company. The term, "trust company," when used in this chapter, unless a different meaning appears from the context, means any corporation or limited liability trust company organized under or subject to the provisions of article three of this chapter, having, in addition to the other powers specified in such article, the fiduciary powers specified therein. The definitions set forth in section two-b of this article shall be utilized when the provisions of this chapter are applied to the formation and operation of limited liability trust companies.

3. Private banker. The term, "private banker," when used in this chapter, means an individual or partnership duly authorized by the superintendent to engage in the business of a private banker pursuant to the provisions of article four of this chapter.

4. Savings bank. The term, "savings bank," when used in this chapter, means any corporation organized under or subject to the provisions of article six of this chapter. Such term shall include stock-form savings banks which shall be subject to the provisions of article six of this chapter to the extent not otherwise provided

* NB There are 2 §9-i's.

by the banking board pursuant to regulations promulgated under section fourteen-e of this chapter.

5. Industrial bank. The term, “industrial bank,” when used in this chapter, means any corporation organized under or subject to the provisions of article seven of this chapter.

6. Safe deposit company. The term, “safe deposit company,” when used in this chapter, means any corporation organized under or subject to the provisions of article eight of this chapter.

7. Licensed lender. The term, “licensed lender,” when used in this chapter, means any person or other entity duly authorized by the superintendent to engage in business pursuant to the provisions of article nine of this chapter. The terms, “licensee,” and “licensees,” when used in article nine of this chapter, mean a licensed lender or licensed lenders.

8. Savings and loan association. The term, “savings and loan association,” when used in this chapter, means any corporation organized under or subject to the provisions of article ten of this chapter. Such term shall include stock-form savings and loan associations which shall be subject to the provisions of article ten of this chapter to the extent not otherwise provided by the banking board pursuant to regulations promulgated under section fourteen-e of this chapter.

9. Credit union. The term, “credit union,” when used in this chapter, means any corporation organized under article eleven of chapter six hundred eighty-nine of the laws of nineteen hundred nine, as amended by chapter five hundred eighty-two of the laws of nineteen hundred thirteen, or under article eleven of this chapter. Every such corporation shall be a non-stock corporation.

10. Investment company. The term, “investment company,” when used in this chapter, means any corporation or limited liability investment company organized under or subject to the provisions of article twelve of this chapter. The definitions set forth in section two-a of this article shall be utilized when the provisions of this chapter are applied to the formation and operation of limited liability investment companies.

10-a. Mutual trust investment company. The term “mutual trust investment company” when used in this chapter, means an investment company as defined by an act of congress entitled the “Investment Company Act of 1940”, approved August twenty-second, nineteen hundred forty, as amended, provided that (a) such company is organized under or subject to the provisions of article twelve-A of this chapter; and (b) all of the stock and shares, other than stock or shares required by law to qualify directors of such investment company, are or are to be owned by trust companies or national banks having trust powers and having their principal offices within the state of New York or their nominees or the nominees of such corporate fiduciaries and individual co-fiduciaries.

11. Banking organizations. The term, “banking organizations,” when used in this chapter, means and includes all banks, trust companies, private bankers, savings banks, industrial banks, safe deposit companies, savings and loan associations, credit unions and investment companies.

12. Time deposits. The term, “time deposits,” when used in this chapter, and except as provided otherwise by regulation of the banking board, means all deposits the payment of which cannot legally be required within fourteen days.

13. Demand deposits. The term, “demand deposits,” when used in this chapter, and except as provided otherwise by regulation of the banking board, means deposits payment of which can legally be required within fourteen days.

14. Net demand deposits. The term, “net demand deposits,” when used in this chapter, means the total of all deposits, and of all amounts due to banking cor-

porations and private bankers and of all amounts due on certified and officers' checks, letters of credit and travelers' checks sold for cash, and for unpaid dividends, less the following items:

(a) Time deposits;

(b) Amounts due on demand from banking corporations organized under the laws of the United States or any state of the United States and private bankers other than a federal reserve bank and reserve depositories.

15. Reserves on hand. The term, "reserves on hand," when used in this chapter, means the reserves against deposits kept in the vault of any banking organization.

16. Reserves on deposit. The term, "reserves on deposit," when used in this chapter, means the reserves against deposits maintained with a federal reserve bank located in this state and with reserve depositories by any banking organization, pursuant to the provisions of this chapter.

17. Total reserves. The term, "total reserves," when used in this chapter, means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this chapter.

18. Reserve depository. The term, "reserve depository," when used in this chapter, means a banking corporation or private banker designated by the superintendent as a depository for reserves on deposit.

19. Stockholder. The term, "stockholder," when used in this chapter, unless otherwise qualified, means a person who appears by the books of a stock corporation to be the owner and holder of one or more shares of the stock of such corporation.

20. Shareholder. The term, "shareholder," when used in this chapter, means a member of a mutual savings and loan association or a member of a credit union.

21. Population. The term, "population," when used in this chapter, means population as determined by the latest federal census; or when used in connection with the words "unincorporated village," as determined by the superintendent from the best available sources of information.

22. Capital stock. The term, "capital stock," when used in this chapter in connection with any stock corporation subject to this chapter, means the aggregate par value of all outstanding shares of every class.

24. Deed of trust. The term "mortgage", when used in this chapter, shall, unless the context otherwise requires, include a deed of trust securing a loan; provided, however, that in applying the recording provisions of this chapter in the case of any obligation secured by a deed of trust, such provisions shall be deemed to require only that such deed of trust be recorded in the name of the trustee or trustees thereunder.

25. Bond and mortgage. The term "bond and mortgage", when used in this chapter, in referring to investments in or loans secured by mortgages on real estate, shall, unless the context otherwise requires, include a note secured by such mortgage.

26. Minor or infant. The term, "minor" or "infant", when used in this chapter, shall mean a person who has not attained the age of eighteen years; provided, however, that such definition shall not be applicable to any provision relating to the New York Uniform Transfers to Minors Act.

HISTORICAL NOTE

Subd. 2 am'd L.1997, ch. 248, §1 eff. July 21, 1997.

Subd. 7 am'd L.1990, ch. 135, §1 eff. Jan 1, 1991.

Subd. 10 am'd L.1995, ch. 637, §1 eff. Aug. 8, 1995.

Subd. 26 am'd L.1999, ch. 231, §1 eff. July 13, 1999.

§2-a. Limited liability investment company; definitions.

When the provisions of this chapter are applied to the formation and operation of a limited liability investment company references to:

1. "Board of directors" shall include the managers charged with the management of a limited liability investment company as set forth in its articles of organization.

2. "By-laws" shall include the operating agreement of a limited liability investment company.

3. "Capital stock" shall include the cash and property the members of a limited liability investment company have contributed to the company, but shall not include promissory notes, or other obligations to contribute cash or property or to perform future services.

4. "Corporation" shall include an unincorporated investment company formed as a limited liability investment company pursuant to the provisions of article twelve of this chapter.

5. "Director" shall include one of the managers charged with the management of a limited liability investment company as set forth in its articles of organization.

6. "Dividend" shall include the distribution of a limited liability investment company's cash or other assets to its members.

7. "Incorporator" shall include the person or persons who is or are the organizer or organizers of a limited liability investment company.

8. "Organization certificate" shall include the articles of organization of a limited liability investment company.

9. "Share" shall include the equity interest of a member of a limited liability investment company as set forth in the company's articles of organization or, in the absence of such a provision, the equity interest represented by a member's right to a proportionate share of the profits of the company.

10. "Stock" shall include the equity interest represented by the percentage of the total votes a member may cast as set forth in the articles of organization of a limited liability investment company or, in the absence of such a provision, the equity interest represented by a member's right to a proportionate share of the profits of the company.

11. "Stockholder" shall include a member of a limited liability investment company who has an equity interest represented by his or her right to a proportionate share of the profits or capital of the company.

12. "Voting stock" shall include the definition of stock as set forth in this section.

HISTORICAL NOTE

Sec. added L.1995, ch. 637, §2 eff. Aug. 8, 1995.

§2-b. Limited liability trust companies; definitions.

When the provisions of this chapter are applied to the formation and operation of a limited liability trust company references to:

1. "Board of directors" shall include the managers charged with the management of a limited liability trust company as set forth in its articles of organization.

2. "By-laws" shall include the operating agreement of a limited liability trust company.

3. "Capital stock" shall include the cash and property the members of a limited liability trust company have contributed to the company, but shall not include promissory notes or other obligations to contribute cash or property or to perform future services.

4. "Corporation" shall include an unincorporated trust company formed as a limited liability trust company pursuant to the provisions of article three of this chapter.

5. "Director" shall include one of the managers charged with the management of a limited liability trust company as set forth in its articles of organization.

6. "Dividend" shall include the distribution of a limited liability trust company's cash or other assets to its members.

7. "Incorporator" shall include the person or persons who is or are the organizer or organizers of a limited liability trust company.

8. "Organization certificate" shall include the articles of organization of a limited liability trust company.

9. "Share" shall include the equity interest of a member of a limited liability trust company as set forth in the company's articles of organization or, in the absence of such a provision, the equity interest represented by a member's right to a proportionate share of the profits of the company.

10. "Stock" shall include the equity interest represented by the percentage of the total votes a member may cast as set forth in the articles of organization of a limited liability trust company or, in the absence of such a provision, the equity interest represented by a member's right to a proportionate share of the profits of the company.

11. "Stockholder" shall include a member of a limited liability trust company who has an equity interest represented by his, her, or its right to a proportionate share of the profits or capital of the company.

12. "Voting stock" shall include the definition of stock as set forth in this section.

HISTORICAL NOTE

Sec. added L.1997, ch. 248, §2 eff. July 21, 1997.

§3. **Division of state into banking districts.**

The state is hereby divided into nine banking districts, which shall be arranged as follows:

The first banking district shall consist of the counties of Kings, Queens, Nassau and Suffolk;

The second banking district shall consist of the counties of Richmond, New York and Bronx;

The third banking district shall consist of the counties of Westchester, Rockland, Putnam, Dutchess, Orange, Ulster and Sullivan;

The fourth banking district shall consist of the counties of Columbia, Rensselaer, Washington, Greene, Albany, Schenectady, Saratoga, Warren, Essex, Schoharie, Montgomery, Fulton, Hamilton, Otsego and Clinton;

The fifth banking district shall consist of the counties of Jefferson, Lewis, Saint Lawrence and Franklin;

The sixth banking district shall consist of the counties of Herkimer, Madison, Oneida, Onondaga, Oswego, Cayuga and Seneca;

The seventh banking district shall consist of the counties of Chemung, Schuyler, Tioga, Tompkins, Broome, Delaware, Cortland and Chenango;

The eighth banking district shall consist of the counties of Monroe, Wayne, Livingston, Ontario, Yates and Steuben;

The ninth banking district shall consist of the counties of Chautauqua, Cattaraugus, Allegany, Erie, Niagara, Wyoming, Genesee and Orleans.

§4. Information to be given to social services officials, state department of social services, state department of mental hygiene, the mental hygiene legal service, representatives of boards of child welfare and children's court by banking organizations.

1. If requested by an authorized representative of the state department of mental hygiene, the mental hygiene legal service, or of the state department of social services, or by the authorities charged with the duty of administering laws relating to public assistance or care or hospital care at public expense in any town, city or county, the officials of any banking organization shall furnish to such representative such information as such officials have as to whether any inmate of any state institution, or any applicant for or any person who is or was a recipient of hospital care at public expense, or any applicant for or any person who is or was a recipient of any form of public assistance or care under the social services law, named in such request or the husband or wife, or other relative legally responsible for the support of such inmate, applicant, or recipient has or had funds, securities or other property on deposit or in the custody of such banking organization, and the amount or probable value thereof.

2. If requested by an authorized representative of the state department of social services, or a social services district child support enforcement unit established pursuant to section one hundred eleven-c of the social services law, the officials of any financial institution, as defined in paragraph one of subdivision (d) of section four hundred sixty-nine A of the federal social security act, shall enter into an agreement with the state department of social services or a social services district child support enforcement unit to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution shall provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each individual who maintains a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account at such institution and who owes past-due support, as identified by the state department of social services or a social services district child support enforcement unit by name and social security number or other taxpayer identification number. Nothing herein shall be deemed to limit the authority of a local social services district support collection unit pursuant to section one hundred eleven-h of the social services law.

3. No financial institution which discloses information pursuant to subdivision two of this section, or discloses any financial record to the state department of social services or a child support enforcement unit of a social services district for the purpose of enforcing a child support obligation of such person, shall be liable under any law to any person for such disclosure, or for any other action taken in good faith to comply with subdivision two of this section.

HISTORICAL NOTE

Formerly §43-a, renumbered and amended by L.1983, ch. 684; am'd L.1952, ch. 374; L.1971, ch. 582; L.1985, ch. 789, §44, eff. Apr. 1, 1986; subd. 1 designated L.1997, ch. 398, §134 eff. Jan. 1, 1998. Subd. 2 added L.1997, ch. 398, §134 eff. Jan. 1, 1998. Subd. 3 added L.1997, ch. 398, §134 eff. Jan. 1, 1998.

§4-a. Banks to display signs.

Every banking organization having as its purpose or among its purposes the receipt of deposits, shall continuously display a sign, or signs, as prescribed by the superintendent of banks, at each station or window within the state where

deposits are usually and normally received in its principal place of business and in all its branches indicating whether deposits are insured, and if insured the name of the insurer and the extent to which each depositor is insured. Signs in non-insured banking organizations shall clearly and legibly state “DEPOSITS NOT INSURED”, all in letters of the same size and character. No sign shall appear in any non-insured bank with regard to insurance or deposits except as herein prescribed.

§4-b. Advertising.

Every such non-insured banking organization shall include in all its advertising within the state with reference to deposit accounts the statement substantially as follows: “DEPOSITS NOT INSURED”. Where such advertising is printed the statement shall be of such size and print to be clearly legible, all letters in such statement being of the same size and character. No further reference shall be contained in the advertising of non-insured banking organizations with reference to the insurance of depositors which shall tend to be misleading in connection therewith. The non-English equivalent of the insurance statement may be used in any advertisement provided that the entire advertisement is in such language and that the translation has had the prior approval of the superintendent of banks.

§4-c. Exemptions from certain provisions of chapter.

Any uninsured banking organization whose assets are in excess of two hundred million dollars shall be exempt from compliance with the provisions of sections four-a, four-b and four-c of this chapter unless otherwise directed by the superintendent.

§5. Loans pursuant to the “Servicemen’s Readjustment Act of 1944.

1. Subject to such regulations and restrictions as the banking board finds to be necessary and proper, (i) any loan at least twenty per centum of which is guaranteed under title three of an act of congress entitled the “Servicemen’s Readjustment Act of 1944,” may be made or invested in by any banking organization having the power to make loans, and the savings and loan bank of the state of New York, and (ii) any bank or trust company may make any loan made on the security of a loan or loans eligible under the preceding subparagraph (i), without regard to the limitations and restrictions of this chapter; provided however, that

(a) No such loan upon the security of real estate shall be made or invested in if the amount of such loan exceeds the appraised value of such real estate, as improved or to be improved by the application of the proceeds of such loan, or if the amount of such loan, when added to the amount unpaid upon prior mortgages, liens and encumbrances upon such real estate, exceeds such appraised value. Such appraised value shall be determined by an appraiser appointed pursuant to policies established by the board of directors or trustees of the corporation making or investing in such loan, or, in the case of a private banker, shall be determined by the private banker or by an appraiser appointed pursuant to policies established by such private banker;

(b) Each such loan, if secured by real property, shall be subject to the provisions of this chapter relating to the recording of mortgages and assignments of mortgages upon real property;

(bb) The requirements of the foregoing paragraphs (a) and (b) shall not apply when not less than ten such mortgages are assigned as security for a loan made under paragraph (ii), providing the term of such loan does not exceed twelve months;

(c) Each such loan shall be subject to the provisions of this chapter prescribing

the maximum limits, in amount, of (1) loans in the aggregate to, or upon the net liability of, any one individual and (2) loans in the aggregate secured by real property;

(d) Each such loan made or invested in by a savings bank, a savings and loan association, or the savings and loan bank of the state of New York shall be subject to the following additional provisions: (1) a loan pursuant to section five hundred one, five hundred two or five hundred three of the "Servicemen's Readjustment Act of 1944," for the purpose of repairing, altering or improving a building or buildings, and a loan pursuant to section five hundred five (a) of such act, need not be secured by a lien on real property, but all other loans pursuant to such act must be secured by a first lien on such property; and (2) in the case of each loan for the acquisition or benefit of, or secured by, real property, such real property must, if located without the state of New York, be located, in the case of a savings bank, within twenty-five miles of the principal office of such savings bank; in the case of a savings and loan association, within fifty miles of the principal office of such association; and, in the case of the savings and loan bank of the state of New York, within fifty miles of the principal office of such bank or the principal office of one of its member savings and loan associations; except that, if the amount of a loan secured by real property, after deducting therefrom the amount thereof which is guaranteed pursuant to such act, is in excess of two-thirds of the appraised value of such real property, as determined in accordance with paragraph (a) of this subdivision, such real property must be located within the state of New York and, in the case of a savings bank or a savings and loan association, within one hundred miles of the principal office of any such corporation which makes, and any such corporation which invests in, such loan; and except that, in the case of a loan pursuant to section five hundred five (a) of such act, the real property for the acquisition or benefit of which such loan is made may be located within the applicable and prescribed limits of this chapter as to the location of real property securing a loan insured by the federal housing commissioner.

(e) The authority provided in this subdivision to invest in any loan secured by real property guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of 1944", shall include authority to acquire title to real property in connection with investing in an installment contract for the sale of real property, so guaranteed, where the purchaser under such contract is in possession and control of the property, and title is acquired by the banking organization solely as security for the obligations of the purchaser.

2. In complying with the provisions of this chapter which prescribe the maximum limits, in amount, of loans in the aggregate to, or upon the net liability of, any one individual, and loans in the aggregate secured by real property, a banking organization or the savings and loan bank of the state of New York may deduct from the total amount of each loan made or invested in by it that portion of such loan which is guaranteed pursuant to the "Servicemen's Readjustment Act of 1944", and, in the case of each loan made or invested in by it which is secured by a loan which is guaranteed pursuant to said act, may deduct that portion which is equal to the portion of such security which is so guaranteed.

3. The foregoing provisions of this section shall not apply to loans insured pursuant to section five hundred eight of the "Servicemen's Readjustment Act of 1944," but the banking board shall have power to authorize banking organizations and the savings and loan bank of the state of New York to make and invest in such loans upon such terms and conditions as it shall prescribe. Nothing contained in this section shall prevent loans guaranteed or insured pursuant to the "Service-

men's Readjustment Act of 1944" from being made or invested in under, and subject to the limitations and restrictions of, other provisions of this chapter.

HISTORICAL NOTE

Subd. 1 par (a) am'd L.2001, ch. 313, §2 eff. Sept. 19, 2001.

§6. Investment in obligations of housing corporations indirectly guaranteed pursuant to the "Servicemen's Readjustment Act of 1944".

Subject to such regulations and restrictions as the banking board finds to be necessary and proper, any bank, trust company or savings bank may invest in obligations of any corporation organized under any law of this state for the purpose of acquiring, constructing, owning, maintaining, operating, selling or conveying a housing project or projects (not including hotels but including accommodations for retail stores, shops, offices and other community services reasonably incident to such projects) located within this state, which obligations are (a) secured by a first mortgage lien on such project, or such part thereof, as was or is to be constructed or acquired out of the proceeds of such obligations, either directly or by issue under an indenture of mortgage from such corporation to a corporate trustee having its principal office in this state, and (b) guaranteed indirectly through the pledge as security thereof of obligations directly guaranteed under title three of an act of congress entitled the "Servicemen's Readjustment Act of 1944", in an aggregate amount equal to at least thirty per centum of the principal amount of all sums advanced to such corporation under the loan instrument or indenture during the period of construction and, upon completion, to the extent of at least forty per centum of the principal amount of such obligations.

§6-a. Investment in obligations of certain persons sixty-five years of age or over incurred to satisfy real property tax indebtedness.

1. Subject to such regulations and restrictions as the banking board finds to be necessary and proper and notwithstanding any inconsistent provision of this chapter to the contrary, any bank, trust company, savings bank, savings and loan association, or life insurance company authorized to do business in this state may make loans described in subdivision two of this section.

2. Banking institutions described in subdivision one may make loans under this section to natural persons aged sixty-five or older subject to the following conditions:

(a) the principal amount of the loan shall not exceed the aggregate amount of all real property taxes, special ad valorem levies, and special assessments paid or owing by the borrower for the current or prior years or both with respect to real property owned individually or jointly by such borrower which constitutes the principal residence of such borrower; provided, however, that the loan agreement may provide for such principal amount to be modified to include the amount of additional real property taxes, special ad valorem levies, and special assessments pertaining to such property as they are incurred; and

(b) such loan shall be secured by a first or second mortgage on the property which mortgage expressly states in like or similar terms "this mortgage is given to secure a loan made pursuant to the provisions of section six-a of the banking law"; and

(c) the annual interest chargeable on such loan shall not exceed the allowable interest chargeable by such lender to any other person, not including a corporation, on an obligation secured by a first mortgage lien; and

(d) a loan which is undertaken pursuant to this section shall not be payable until the sale or other disposition of such property, provided however that any borrower

may discharge any indebtedness he has undertaken pursuant to the provisions of this section at any time without payment of any charges other than principal and interest.

3. Subject to regulations of the banking board, banking institutions described in subdivision one of this section which make loans pursuant to this section may, pursuant to the loan agreement, utilize part or all of the proceeds of such loan to make direct payment of real property taxes, special ad valorem levies, and special assessments on the property which secures such loan. Any such institution which retains part or all of the proceeds of such loan for the purpose of making direct payment of such real property taxes, special ad valorem levies, and special assessments shall be liable to such borrower, upon failure to pay such taxes, levies, and assessments for the amount of such taxes, levies, and assessments plus penalties and interest imposed thereon.

4. Every banking institution which makes direct payment of real property taxes, special ad valorem levies, and special assessments pursuant to subdivision three shall at least annually provide to the borrower any paid bill it has received for the payment of such taxes, levies, and assessments. Such bill shall be contained in a succeeding loan statement as may be sent to such borrower. This section shall not apply to billings for real property taxes, special ad valorem levies, and special assessments transmitted by computer tape by a city with a population of one million or more persons.

§6-c. Application forms to be made available; certain cases.

1. Every banking organization which originates loans secured by real property located in this state shall provide at its principal place of business and at all its branches except automated teller machines, point-of-sale terminals or other similar facilities, application forms for such loans which forms shall be made available upon request.

2. Every such organization shall be required, in such manner as the superintendent shall determine, to maintain a record of such application forms returned substantially completed and the last activity had with respect thereto.

3. Every such organization shall inform any person making inquiry regarding the origination of loans secured by real property located in this state that written loan application forms are available at its principal place of business and at all its branches except automated teller machines, point-of-sale terminals or other similar facilities.

4. For purposes of this section “a loan secured by real property” shall include any loan secured by a mortgage or other lien upon real property including a leasehold estate and any cooperative apartment loan subject to the provisions of subdivision five of section one hundred three, subdivision eight-a of section two hundred thirty-five or subdivision two-a of section three hundred eighty of this chapter.

§6-d. Requirement to state in writing reason for denial of mortgage loan.

Every banking organization and licensed mortgage banker which originates mortgage loans secured by real property located within New York state which denies an application for such a loan or makes its approval of such a loan conditional upon the applicant’s agreement to terms substantially different than those included in or contemplated by the submitted application shall be required to notify, in writing, any person or agent who returns a substantially completed written mortgage loan application form of the reasons for the denial or conditioned approval.

§6-e. Graduated payment mortgages authorized.

Notwithstanding any inconsistent provision of this chapter or other law and in addition to any other power exercisable by it, every banking organization, licensed mortgage banker, national banking association, federal savings bank, federal savings and loan association and federal credit union shall have the power to offer graduated payment mortgages and loans which conform to the provisions of section two hundred seventy-nine of the real property law, subject to the rules and regulations prescribed by the banking board.

§6-f. Alternative mortgage instruments made by banks, trust companies, savings banks, savings and loan associations and credit unions.

1. Notwithstanding any inconsistent provision of this chapter or any other law of this state, the banking board is authorized to adopt such rules or regulations as shall permit banks, trust companies, foreign banking corporations licensed to maintain a branch or agency in this state, savings banks, savings and loan associations, credit unions and persons and entities engaging in the business described in section five hundred ninety of article twelve-d of this chapter to make residential mortgage loans and cooperative apartment unit loans which provide for (a) periodic readjustments of the rate of interest charged for the loan or successive terms of the loan or (b) terms of loan which are shorter than the term of the mortgage or (c) repayment of the principal amount of the loan by regular payments which are not equal in amount throughout the term of the mortgage or (d) any combination of paragraphs (a), (b) and (c) above, subject to the provisions of subdivision two of this section.

2. Any rules or regulations which are adopted by the banking board pursuant to subdivision one of this section:

(a) shall provide for disclosures and notices to the borrower with respect to the terms and conditions of the loan and the mortgage, and the banking board may require the adoption of uniform disclosure and notice forms for this purpose;

(b) shall provide for the conditions governing renewals of the term of the loan;

(c) shall not permit any uninsured loan secured by residential real property to be made in an amount exceeding ninety percent of the appraised value of the property; and

(d) shall not allow, with respect to any specific alternative mortgage instrument which permits a periodic readjustment of the rate charged on the loan, for a greater change in rate than that permitted under federal law or regulations to federally-chartered banking organizations located in this state for loans made pursuant to an equivalent alternative mortgage instrument.

§6-g. Override of certain provisions of United States Public Law 97-320.

The provisions of Title VIII of an act of congress entitled “Garn-St Germain Depository Institutions Act of 1982”, United States Public Law 97-320, and the preemption of state law provided in section 804 thereof, shall not apply with respect to residential real property and cooperative apartment unit alternative mortgage transactions subject to the laws of this state.

§6-h. Reverse mortgage loans authorized.

Notwithstanding any inconsistent provision of law, in addition to any other power exercised by it, every authorized lender, as defined by section two hundred eighty or two hundred eighty-a of the real property law, shall have the power to offer reverse mortgage loans (1) which conform to the provisions of section two hundred eighty or two hundred eighty-a of the real property law and the rules and regulations promulgated by the banking board; or (2) which conform to the re-

quirements of the federal housing administration's home equity conversion mortgage insurance demonstration program for as long as such program exists as provided for in section 1715Z-20 of title 12 of the United States Code. "Reverse mortgage" shall mean the mortgage, deed of trust or other security instrument relating to a particular reverse mortgage loan transaction.

HISTORICAL NOTE

Sec. am'd L.1993, ch. 613, §1 eff. Dec. 2, 1993.

§6-i. **Mortgage loans.**

No person, partnership, corporation, banking organization, exempt organization as defined in section five hundred ninety of this chapter or other entity shall make a mortgage loan as defined in section five hundred ninety of this chapter except in conformity with the requirements of article twelve-D and in compliance with such rules and regulations as may be promulgated by the banking board or prescribed by the superintendent under this section. Nothing in this section shall be construed to limit or otherwise modify any otherwise applicable requirement of state or federal law.

§6-j. **Proof of insurance.**

1. No exempt organization, as defined in section five hundred ninety of this chapter, or licensed mortgage banker which originates mortgage loans shall, at the time of title closing for a loan secured by a one to four family residential real property, refuse to accept a binder, issued by an insurer, or a duly authorized representative of an insurer, licensed to do business in this state, as evidence that hazard insurance has been procured for the mortgaged premises. Nothing herein is intended to prohibit the mortgage banker or exempt organization from requiring the borrower to also furnish a receipt indicating that the annual or installment premium on such insurance policy has been paid.

2. As used in this section, "binder" means a written document (a) which includes the name and address of the insured and any additional named insureds, mortgagees, or lienholders; a description of the property insured; a description of the nature and amount of coverage which shall be deemed to include the terms of the standard fire insurance policy except as conspicuously noted on the binder; the identity of the insurer and of the authorized representative executing the binder; the effective date of coverage; the binder number or the policy number where applicable to a policy extension, and (b) which temporarily obligates the insurer to provide that insurance coverage pending issuance of the insurance policy. The cancellation of such a binder shall be governed at the minimum by the provisions of the standard fire insurance policy and the provisions of the insurance law applicable thereto.

HISTORICAL NOTE

Sec. added L.1990, ch. 445, §2 eff. July 10, 1990.

§6-k. **Real property insurance escrow accounts.**

1. Definitions. When used in this section: (a) "Mortgage investing institution" means any bank, trust company, national bank, savings bank, savings and loan association, federal savings bank, federal savings and loan association, private banker, credit union, federal credit union, investment company, pension fund, licensed mortgage banker or any other entity which maintains a real property insurance escrow account for real property located in this state.

(b) "Mortgagor" means a person having title to and occupying a one to four family residence which is located in this state and is subject to a mortgage.

(c) “Real property insurance” means a policy of insurance issued, or issued for delivery in this state, on a risk located or resident in this state insuring the following contingency: loss or damage (including but not limited to loss or damage on account of fire) to real property used predominantly for residential purposes and consists of not more than four dwelling units, other than motels or hotels.

(d) “Real property insurance escrow account” means an account established by contract between a mortgagor of real property improved by a one to four family residence and the mortgage investing institution having a mortgage thereon, into which the mortgage investing institution shall deposit money collected from the mortgagor for the purpose of paying real property insurance premiums.

(e) “One to four family residence” means property used primarily for residential purposes for one to four families, including property held in condominium form of ownership, and which is occupied in whole or in part by the owner.

2. Duties and responsibilities of mortgage investing institutions. (a) Every mortgage investing institution shall make all payments for insurance for which they hold real property insurance escrow accounts in a timely manner.

(b) Every mortgage investing institution shall pay at least the minimum rate of interest on each real property insurance escrow account as prescribed therein.

(c) Every mortgage investing institution shall deposit funds from a real property insurance escrow account of a mortgagor in a banking institution whose deposits are insured by a federal agency or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency. Notwithstanding the foregoing provisions of this subdivision, the banking board shall have the power, by a three-fifths vote of all its members, to exempt from the requirements of this subdivision any banking organization which does not receive deposits or share accounts from the general public.

(d) A mortgage investing institution may debit a mortgagor’s real property insurance escrow account for payments of insurance premiums only if actual payment for such premiums is made within twenty-one days after such debit.

(e) Every mortgage investing institution shall, at least annually, provide to the mortgagor an analysis of the real property insurance escrow account of the mortgagor. Such analysis shall contain, for the twelve month period covered by the analysis, at least: (1) interest earned; (2) the amount of insurance premiums paid from the real property insurance escrow account; and (3) the account balance as of the beginning of the period covered by the analysis and the ending account balance as of a specified date within forty-five days preceding the date of the analysis. In addition, the mortgage investing institution shall, upon request by the mortgagor, provide to the mortgagor the date or dates of the payment of insurance premiums from such real property insurance escrow account. The information required by this paragraph may be provided in notices otherwise required by federal or state law, regulation or rule to be sent on at least an annual basis to the mortgagor, including but not limited to notices under title three-A of the real property tax law.

(f) The mortgage investing institution shall provide a written disclosure, in at least eight point bold face type, to the mortgagor with respect to the real property insurance escrow account. Such disclosure shall be provided at the time of the establishment of the real property insurance escrow account. In the case of accounts already in existence on the effective date of this act, such disclosure shall be provided to the mortgagor with the next annual analysis required by paragraph (e) of this subdivision. The disclosure shall contain substantially the following language:

(i) The mortgage investing institution is obligated to make all payments for real

property insurance for which the real property insurance escrow account is maintained. If any such payments are not timely, the mortgage investing institution is responsible for making such payments including any penalties and interest and shall be liable for all damages to the mortgagor resulting from its failure to make timely payment.

(ii) In the event that a real property insurance premium notice is sent directly to the mortgagor by the insurer, the mortgagor shall have the obligation to promptly transmit such premium notice to the mortgage investing institution, or such other institution or agent as may be designated in writing by the mortgage investing institution, for payment. Failure to do so may jeopardize the mortgagor's insurance coverage and may excuse the mortgage investing institution from liability for failure to timely make such real property insurance payments.

(iii) The mortgagor is obligated to pay one-twelfth of the real property insurance premiums each month to the mortgage investing institution for deposit into the real property insurance escrow account, unless there is a deficiency or surplus in the account, in which case a greater or lesser amount may be required.

(iv) If the mortgage investing institution is subject to the provisions of paragraph (c) of this subdivision, the mortgage investing institution must deposit the escrow payments made by the mortgagor in a banking institution or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency.

(g) Every mortgage investing institution shall provide written notice to a mortgagor no later than ten business days after the transfer to another mortgage investing institution of the right to receive all payments from the mortgagor, including payments made into the real property insurance escrow account, which notice shall include the name, address and telephone number of the mortgage investing institution to which such rights have been transferred. Upon request by the mortgagor, the mortgage investing institution shall advise the mortgagor of the amount of money in such account as of the date of such transfer. Every mortgage investing institution shall remain fully liable to pay any real property insurance premiums which are due and payable prior to the date of such transfer, and the mortgage investing institution to which such rights have been transferred shall be liable to pay any real property insurance premiums which are due and payable after the date of such transfer, unless otherwise agreed among the parties to the transfer.

(h) Every mortgage investing institution shall, no later than thirty days after the final payment of the mortgage loan, where the mortgagor retains ownership of the property, send to the mortgagor a written statement that shall include, but not be limited to the following information: (i) that the real property insurance escrow account has been or will be terminated (whichever is applicable); and (ii) that unless the mortgagor establishes a new real property insurance escrow account with a mortgage investing institution, the mortgagor will be obliged to pay to the appropriate insurer real property insurance premiums becoming due thereafter. The written notice shall also set forth the effective date of the termination and shall provide the name and address of each insurer and shall advise the mortgagor to contact such insurer for billing information.

3. Mailing or delivery of bills to mortgage investing institutions. A mortgagor who has entered into a real property insurance escrow account may designate, in writing, a mortgage investing institution, and its successors, agents or assigns to receive premium notices for real property insurance. The mortgage investing institution shall advise the insurer in writing within fifteen days after the termination of such escrow account and shall inform the insurer that all future premium notices should be sent directly to the insured. The mortgage investing institution shall,

upon the request of the insurer, provide any document that clearly evidences its authorization to receive insurance premium notices or obligation to pay real property insurance premiums.

4. Payments by mortgage investing institutions. A mortgage investing institution may pay the real property insurance premiums due on more than one parcel by a single instrument, provided that the mortgage investing institution also provides to the insurer a detailed list of the specific parcels to which the instrument is to be applied, each parcel identification number (if any) and the amount of the real property insurance premium to be paid with respect to each parcel.

5. Liabilities of mortgage investing institutions. (a) A mortgage investing institution which receives moneys from a mortgagor for deposit into a real property insurance escrow account shall be liable to such mortgagor, upon failure to pay such real property insurance premiums, for the amount of the real property insurance premiums plus penalties and interest imposed thereon.

(b) In addition to any other remedies permitted by law, a mortgagor whose real property insurance premiums are to be paid by means of a real property insurance escrow account pursuant to this section may bring an action against the mortgage investing institution maintaining such account for the mortgagor under the provisions of this subdivision if payments for real property insurance premiums have not been made for thirty days after the date such insurance premiums have become due and payable. If a court shall find, after considering the circumstances of the failure of a mortgage investing institution to pay the real property insurance premium of a mortgagor pursuant to an escrow agreement, that such failure was due to the negligence or intentional acts of the mortgage investing institution, its agent, or both, the court may award the mortgagor injunctive relief and liquidated damages in an amount equal to three times the real property insurance premium not paid, but in no event greater than six thousand dollars.

(c) A mortgage investing institution shall be liable to the mortgagor for all damages and shall bear all responsibility for failure to make timely payment of insurance premiums.

(d) The mortgage investing institution shall have liability to the mortgagor under this subdivision only if:

(i) the mortgage investing institution, or such other institution or agent as designated in writing by the mortgage investing institution, has received the real property insurance premium notice; and

(ii) the mortgagor has made required payments for deposit into the real property insurance escrow account.

6. Separability. If any provision of this section or the application of such provision in certain circumstances shall be held invalid, the validity of the remainder of this section and its applicability to other circumstances shall not be affected.

HISTORICAL NOTE

Sec. added L.1992, ch. 563, §2 eff. Jan 1, 1993.

§6-l. High-cost home loans.

1. Definitions. The following definitions apply for the purposes of this section:

(a) "Affiliate" means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. §1841 et seq.), as amended from time to time.

(b) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the Federal Truth-in-Lending Act (15 U.S.C. §1601, et seq.), and the regulations promulgated thereunder by the federal reserve board (as said act and regulations are amended from time to time).

(c) “Bona fide loan discount points” means loan discount points knowingly paid by the borrower funded through any source, for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the loan, provided that the amount of the interest rate reduction purchased by the discount points is reasonably consistent with established industry norms and practices for secondary mortgage market transactions. For purposes of this section, it shall be presumed that a point is a bona fide loan discount point if it reduces the interest rate by a minimum of twenty-five basis points provided all other terms of the loan remain the same.

(d) A “High-cost home loan” means a home loan in which the terms of the loan exceed one or more of the thresholds as defined in paragraph (g) of this subdivision.

(e) “Home loan” means a home loan, including an open-end credit plan, other than a reverse mortgage transaction, in which:

(i) The principal amount of the loan does not exceed the lesser of: (A) conforming loan size limit for a comparable dwelling as established from time to time by the federal national mortgage association; or (B) three hundred thousand dollars;

(ii) The borrower is a natural person;

(iii) The debt is incurred by the borrower primarily for personal, family, or household purposes;

(iv) The loan is secured by a mortgage or deed of trust on real estate upon which there is located or there is to be located a structure or structures intended principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower’s principal dwelling; and

(v) The property is located in this state.

(f) “Points and fees” means:

(i) All items listed in 15 U.S.C. §1605(a)(1) through (4), except interest or the time-price differential;

(ii) All charges for items listed under §226.4(c)(7) of title 12 of the code of federal regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase “points and fees”;

(iii) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table-funded transaction, not otherwise included in subparagraphs (i) and (ii) of this paragraph;

(iv) The cost of all premiums financed by the lender, directly or indirectly, for any credit life, credit disability, credit unemployment, or credit property insurance, or any other life or health insurance, or any payments financed by the lender directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums calculated and paid on a monthly basis shall not be considered financed by the lender.

(g) “Thresholds” means:

(i) For a first lien mortgage loan, the annual percentage rate of the home loan at consummation of the transaction exceeds eight percentage points over the yield on treasury securities having comparable periods of maturity to the loan maturity measured as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the lender; or for a subordinate mortgage lien, the annual percentage rate of the home loan at consummation of the transaction equals or exceeds nine percentage points over the yield on treasury securities having comparable periods of maturity on the

fifteenth day of the month immediately preceding the month in which the application for extension of credit is received by the lender; as determined by the following rules: if the terms of the home loan offer any initial or introductory period, and the annual percentage rate is less than that which will apply after the end of such initial or introductory period, then the annual percentage rate that shall be taken into account for purposes of this section shall be the rate which applies after the initial or introductory period; or

(ii) The total points and fees exceed: five percent of the total loan amount if the total loan amount is fifty thousand dollars or more; or six percent of the total loan amount if the total loan amount is fifty thousand dollars or more and the loan is a purchase money loan guaranteed by the federal housing administration or the veterans administration; or the greater of six percent of the total loan amount or fifteen hundred dollars, if the total loan amount is less than fifty thousand dollars; provided, the following discount points shall be excluded from the calculation of the total points and fees payable by the borrower:

(1) Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point the yield on United States treasury securities having comparable periods of maturity to the loan maturity measured as of the fifteenth day of the month immediately preceding the month in which the application is received;

(2) Any and all bona fide loan discount points funded directly or indirectly through a grant from a federal, state or local government agency or 501(c)(3) organization.

(h) "Total loan amount" means the principal of the loan minus those points and fees as defined in paragraph (f) of this subdivision that are included in the principal amount.

(i) "Lender" means a mortgage banker as defined in paragraph (f) of subdivision one of section five hundred ninety of this chapter or an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of this chapter.

2. Limitations and prohibited practices for high-cost home loans. A high-cost home loan shall be subject to the following limitations:

(a) No call provisions. No high-cost home loan may contain a provision that permits the lender, in its sole discretion, to accelerate the indebtedness. This provision does not prohibit acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

(b) No balloon payments. No high-cost home loan may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments, unless such balloon payment becomes due and payable at least fifteen years after the loan's origination. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(c) No negative amortization. No high-cost home loan may contain a payment schedule with regular periodic payments that cause the principal balance to increase.

(d) No increased interest rate. No high-cost home loan may contain a provision which increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents; provided that the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(e) Limitation on advance payments. No high-cost home loan may include terms

under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(f) No modification or deferral fees. A lender may not charge a borrower any fees to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan if, after the modification, renewal, extension or amendment, the loan is still a high-cost loan or, if no longer a high-cost home loan, the annual percentage rate has not been decreased by at least two percentage points. For purposes of this paragraph, fees shall not include interest that is otherwise payable and consistent with the provisions of the loan documents. This paragraph shall not prohibit a lender from charging points and fees in connection with any additional proceeds received by the borrower in connection with the modification, renewal, extension or amendment (over and above the current principal balance of the existing high-cost home loan) provided that the points and fees charged on the additional sum must reflect the lender's typical point and fee structure for high-cost home loans.

(g) No oppressive mandatory arbitration clauses. No high-cost home loan may be subject to a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers.

(h) No financing of insurance. No high-cost home loan shall finance, directly or indirectly, any credit life, credit disability, credit unemployment, or credit property insurance, or any other life or health insurance premiums, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed.

(i) No "loan flipping". No lender or mortgage broker making or arranging a high-cost home loan may engage in the unfair act or practice of "loan flipping". "Loan flipping" is making a home loan to a borrower that refinances an existing home loan when the new loan does not have a tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's situation.

(j) No refinancing of special mortgages. No lender making a high-cost home loan may refinance an existing home loan that is a special mortgage originated, subsidized or guaranteed by or through a state, tribal or local government, or nonprofit organization, which either bears a below-market interest rate at the time of origination, or has nonstandard payment terms beneficial to the borrower, such as payments that vary with income, are limited to a percentage of income, or where no payments are required under specified conditions, and where, as a result of the refinancing, the borrower will lose one or more of the benefits of the special mortgage, unless the lender is provided prior to loan closing documentation by a HUD certified housing counselor or the lender who originally made the special mortgage that a borrower has received home loan counseling in which the advantages and disadvantages of the refinancing has been received.

(k) No lending without due regard to repayment ability. A lender or mortgage broker shall not make or arrange a high-cost home loan without due regard to repayment ability, based upon consideration of the resident borrower or borrowers' current and expected income, current obligations, employment status, and other financial resources (other than the borrower's equity in the dwelling which secures repayment of the loan), as verified by detailed documentation of all sources of income and corroborated by independent verification. However, a lender making a high-cost home loan shall benefit from a rebuttable presumption that the loan was made with due regard to repayment ability if the lender demonstrates that at the time the loan is consummated, the resident borrower or borrowers' total

monthly debts, including amounts owed under the loan, do not exceed fifty percent of the resident borrower or borrowers' monthly gross income; and the lender follows the residual income guidelines established in 38 C.F.R. §36.4337(e) and VA Form 26-6393.

(1) (i) No lending without counseling disclosure and list of counselors. A lender or mortgage broker must deliver, place in the mail, fax or electronically transmit the following notice in at least twelve point type to the borrower at the time of application: "You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the New York State Banking Department". In the event of a telephone application, the disclosures must be made immediately after receipt of the application by telephone. Such disclosure shall be on a separate form. In order to utilize an electronic transmission, the lender or broker must first obtain either written or electronically transmitted permission from the borrower. A list of approved counselors, available from the New York state banking department, shall be provided to the borrower by the lender or the mortgage broker at the time that this disclosure is given.

(ii) A lender or mortgage broker shall not make or arrange a high-cost home loan unless either the lender or mortgage broker has given the following notice in writing to the borrower within three days after determining that the loan is a high-cost home loan, but no less than ten days before closing:

"CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE

If you obtain this loan, which pursuant to New York State Law is a High-Cost Home Loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.

You should shop around and compare loan rates and fees. Mortgage loan rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan-to-value requested, and the type of property that will secure your loan. The loan rate and fees could vary based on which lender or mortgage broker you select. Higher rates and fees may be related to the individual circumstances of a particular consumer's application.

You should consider consulting a qualified independent credit counselor or other experienced financial adviser regarding the rate, fees, and provisions of this mortgage loan before you proceed. The enclosed list of counselors is provided by the New York State Banking Department.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then subsequently incur significant new credit card charges or other debts. If you continue to accumulate debt after this loan is closed and then experience financial difficulties, you could lose your home and any equity you have in it if you do not meet your mortgage loan obligations.

Property taxes and homeowner's insurance are your responsibility. Not all lenders provide escrow services for these payments. You should ask your lender about these services.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors.

Accordingly, it is important that you make regular payments to your existing creditors.”.

(m) Financing of points and fees. In making a high-cost home loan, a lender shall not, directly or indirectly, finance any points and fees as defined in paragraph (f) of subdivision one of this section, in an amount that exceeds three percent of the principal amount of the loan.

(n) Restrictions on home improvement contracts. A lender shall not pay a contractor under a home improvement contract from the proceeds of a high-cost home loan other than: by an instrument payable to the borrower or jointly to the borrower and the contractor; or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.

(o) No encouragement of default. In making or arranging a high-cost home loan, a lender or mortgage broker shall not recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost home loan that refinances all or any portion of such existing loan or debt.

(p) Prohibited payments to mortgage brokers. In making or arranging a high-cost home loan, no lender or mortgage broker shall accept or give any fee, kick-back, thing of value, portion, split or percentage of charges, other than as payment for goods or facilities that were actually furnished or services that were actually performed. Such payment must be reasonably related to the value of the goods or facilities that were actually furnished or services that were actually performed.

(q) No points and fees when a lender refinances its own high-cost home loan with a new high-cost home loan. A lender shall not charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the lender or an affiliate of the lender.

2-a. (a) High-cost home loan mortgages shall include a legend on top of the mortgage in twelve-point type stating that the mortgage is a high-cost home loan subject to this section.

(b) The lender shall report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually during such period as the lender holds or services the high-cost home loan.

3. The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of this section by any subterfuge, including but not limited to splitting or dividing any loan transaction into separate parts for the purpose of evading the provisions of this section.

4. A lender of a high-cost home loan that, when acting in good faith, fails to comply with the provisions of this section, will not be deemed to have violated this section if the lender establishes that either:

(a) Within thirty days of the loan closing and prior to the institution of any action under this section, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, (i) make the high-cost home loan satisfy the requirements of this section, or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan is no longer a high-cost home loan subject to the provisions of this section; or

(b) The compliance failure resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors and, within sixty days after the discovery of the compliance failure and prior to the institution of any action under this section or the receipt of written notice of the compliance

failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, (i) make the high-cost home loan satisfy the requirements of this section, or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan is no longer a high-cost home loan subject to the provisions of this section. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

5. The attorney general, the superintendent, or any party to a high-cost home loan may enforce the provisions of this section.

6. A private action against the lender or mortgage broker pursuant to this section must be commenced within six years of origination of the high-cost home loan.

7. Any person found by a preponderance of the evidence to have violated this section shall be liable to the borrower for the following:

(a) actual damages, including consequential and incidental damages; and

(b) statutory damages as follows (i) all of the interest, earned or unearned, points and fees, and closing costs charged on the loan shall be forfeited and any amounts paid shall be refunded; except that this element of statutory damages shall not be awarded for violations of:

(1) paragraph (i) of subdivision two of this section regarding loan flipping; and

(2) paragraph (k) of subdivision two of this section regarding ensuring the borrower's ability to repay the loan, so long as the lender demonstrates that at the time of the loan, it verified by detailed documentation all sources of the borrower's income and corroborated it with independent verification; or

(i) five thousand dollars per violation or twice the amount of points and fees and closing costs as defined in this section, whichever is greater, for violations of:

(1) paragraph (i) of subdivision two of this section regarding loan flipping; and

(2) paragraph (k) of subdivision two of this section regarding ensuring the borrower's ability to repay the loan, where the borrower is not entitled to relief under subparagraph (i) of this paragraph.

8. A court may also award reasonable attorneys' fees to a prevailing borrower.

9. A borrower may be granted injunctive, declaratory and such other equitable relief as the court deems appropriate in an action to enforce compliance with this section.

10. Upon a finding by the court of an intentional violation by the lender of this section, or regulation thereunder, the home loan agreement shall be rendered void, and the lender shall have no right to collect, receive or retain any principal, interest, or other charges whatsoever with respect to the loan, and the borrower may recover any payments made under the agreement.

11. Upon a judicial finding that a high-cost home loan violates any provision of this section, whether such violation is raised as an affirmative claim or as a defense, the loan transaction may be rescinded. Such remedy of rescission shall be available as a defense without time limitation.

12. The remedies provided in this section are not intended to be the exclusive remedies available to a borrower of a high-cost home loan.

13. In any action by an assignee to enforce a loan against a borrower in default more than sixty days or in foreclosure, a borrower may assert any claims in recoupment and defenses to payment under the provisions of this section and with respect to the loan, without time limitations, that the borrower could assert against the original lender of the loan.

14. The provisions of this section shall be severable, and if any phrase, clause,

sentence, or provision is declared to be invalid, or is preempted by federal law or regulation, the validity of the remainder of this section shall not be affected thereby. If any provision of this section is declared to be inapplicable to any specific category, type, or kind of points and fees, the provisions of this section shall nonetheless continue to apply with respect to all other points and fees.

HISTORICAL NOTE

Sec. added L.2002, ch. 626, §1 eff. Apr. 1, 2003.

§7. Payment of dividends or interest upon unclaimed deposits or shares; limitation of charges in connection with savings accounts.

1. No banking organization or foreign banking corporation transacting business in this state shall discontinue the payment of dividends or interest on any deposit made with such organization or corporation, or reduce the rate at which dividends or interest is paid, solely because such deposit is inactive or unclaimed, except that payment of dividends or interest may be discontinued for the period following June thirtieth of the year in which the deposit is paid to the state comptroller pursuant to section three hundred three of the abandoned property law. A share issued by a savings and loan association or by a credit union shall be deemed a deposit for the purposes of this section.

2. No banking organization or foreign banking corporation transacting business in this state shall impose any service charge on an inactive savings account which is higher than the service charge imposed by such organization or corporation on an active savings account; provided, however, that a banking organization or foreign banking corporation may impose a reasonable charge on an inactive savings account for costs related to or incurred as a result of the payment or delivery of abandoned property to the state comptroller pursuant to the abandoned property law.

3. The banking board may promulgate such regulations as it deems necessary and proper to implement and define the provisions of this section.

§8. Deposits by custodian designated by administrator of veterans' affairs, or by person certified by social security administration.

When any deposit shall be made for the benefit of an individual by the person who has been designated the custodian of such individual by the administrator of veterans' affairs pursuant to the provisions of title thirty-eight, United States code, "Veterans' Benefits", as amended, or when a deposit shall be made for the benefit of an individual by a person who has been certified by the social security administration as the person to whom payment for the benefit of such individual should be made pursuant to the provisions of an act of congress entitled the "Social Security Act", the deposit, together with any interest or dividends credited thereon, may be paid to such custodian or his successor designated by the administrator of veterans' affairs or to such person or his successor certified by the social security administration, and the receipt or acquittance of such custodian or person or such successor shall be a valid and sufficient release and discharge to the depository for any payment so made.

§9. Checks drawn against corporate funds or payable to corporations; no notice of defense against or claim to check.

Notwithstanding section 3-304 of the uniform commercial code, the drawing of a check by an officer or agent of a corporation against the account of, or in the name of the corporation, whether the check is drawn against an account in the name of the corporation, or in the name of such officer or agent of the corporation

as such, to himself as payee, or the endorsement of a check in the name of the corporation, to himself as endorsee, and in either case the cashing of such check or the deposit thereof to the credit of his personal account, shall not constitute notice to a private banker, banking organization or branch of a foreign banking corporation of any defense against or claim to the check on the part of any person, provided that the private banker, banking organization or branch has on file an authorization from the corporation showing that the officer or agent is authorized on behalf of the corporation to perform any of the above acts for unlimited or limited amounts, and that the amount of the check does not exceed the maximum limits of the amount so contained in the authorization so filed for the officer or agent when such a limitation is contained therein.

§9-a. Defense of ultra vires.

No act of a corporation formed under this chapter, or of a corporation formed under any other statute or special act having as its purpose or among its purposes a purpose for which a corporation may be formed under this chapter, and no transfer of real or personal property to or by such a corporation, otherwise lawful, shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such transfer, but such lack of capacity or power may be asserted:

1. In an action by a stockholder or member against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made under any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the action and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the action of the court in setting aside and enjoining the performance of such contract; provided that anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

2. In an action by or in the right of the corporation to procure a judgment in its favor against an incumbent or former officer or director of the corporation for loss or damage due to his unauthorized act.

3. In an action or special proceeding by the superintendent or the attorney-general to annul or dissolve the corporation or to enjoin it from the doing of unauthorized business.

§9-b. Actions or special proceedings by superintendent or attorney-general.

1. In addition to any action or special proceeding which may be maintained by either of them under any other section of this chapter, the superintendent or the attorney-general may maintain an action or special proceeding:

(a) To annul the corporate existence or dissolve a corporation formed under any article of this chapter or formed under any other statute or special act having as its purpose or among its purposes a purpose for which a corporation may be formed under this chapter that has acted beyond its capacity or power or to restrain it from the doing of unauthorized business.

(b) To annul the corporate existence or dissolve any such corporation that has not been duly formed.

(c) To restrain any person or persons from acting as such a corporation within this state without being duly incorporated or from exercising in this state any

corporate rights, privileges or franchises not granted to them by the law of the state.

(d) To dissolve a corporation under section nine-c.

2. In any action or special proceeding brought under this section:

(a) If an action, it is triable by jury as a matter of right.

(b) The court may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

(c) A temporary restraining order to restrain the commission or continuance of the unlawful acts which form the basis of the action or special proceeding may be granted upon proof, by affidavit, that the defendant or defendants have committed or are about to commit such acts. Application for such restraining order may be made ex parte or upon such notice as the court may direct.

(d) When final judgment in such action or special proceeding is rendered against the defendant or defendants, the court may direct the costs to be collected by execution against any or all of the defendants or by order of attachment or other process against the person of any director or officer of a corporate defendant.

(e) In connection with any such proposed action or special proceeding the superintendent or the attorney-general may take proof and issue subpoenas in accordance with the civil practice law and rules.

§9-c. Superintendent's or attorney-general's action for judicial dissolution.

1. The superintendent or the attorney-general may bring an action for the dissolution of a corporation formed under any article of this chapter or formed under any other statute or special act having as its purpose or among its purposes a purpose for which a corporation may be formed under this chapter upon one or more of the following grounds:

(a) That the corporation procured its formation through fraudulent misrepresentation or concealment of a material fact.

(b) That the corporation has exceeded the authority conferred upon it by law, or has violated any provision of law whereby it has forfeited its charter, or carried on, conducted or transacted its business in a persistently fraudulent or illegal manner, or by the abuse of its powers contrary to the public policy of the state has become liable to be dissolved.

2. An action under this section is triable by jury as a matter of right.

3. The enumeration in subdivision one of grounds for dissolution shall not exclude actions or special proceedings by the superintendent, the attorney-general or other state officials for the annulment or dissolution of a corporation for other causes as provided in this chapter or in any other statute of this state.

§9-d. Enforcement of section two hundred ninety-six-a of the executive law.

In addition to the powers conferred upon the superintendent of banks by this chapter, he shall enforce section two hundred ninety-six-a of the executive law by taking such action as is therein authorized.

§9-f. Geographic discrimination in making mortgage loans prohibited.

1. No banking institution as such term is defined in this section shall refuse to make a prudent loan upon the security of real property or otherwise discriminate with respect thereto because of the geographic location of such property if such property is located within the geographic area ordinarily serviced by such bank or within the community within which the principal or any branch office of such banks is located. A violation of the provisions of this subdivision shall be subject to the applicable provisions of sections thirty-nine and forty-four of this chapter.

2. Any person who makes application for such a loan and is refused such loan

may request the superintendent to review the denial of such application. If the superintendent determines that such loan was prudent and was denied in violation of subdivision one hereof, the superintendent shall certify such determination to the state of New York mortgage agency created pursuant to title seventeen of article eight of the public authorities law.

3. For the purposes of this section, the term (a) “prudent loan” means a loan upon the security of real property which is prudent by acceptable banking standards and is in compliance with all of the provisions of this chapter, regulations of the banking board and rules of the superintendent; and (b) notwithstanding any other provision of this chapter or law to the contrary, the term banking institution when used in this section shall mean and include all banks, trust companies, savings banks, savings and loan associations, credit unions, mortgage bankers, exempt organizations as defined in article twelve-D of this chapter and foreign banking corporations whether incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States.

4. If any clause, sentence, paragraph, subdivision or part of this section or the application thereof to any person, firm or corporation, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined (i) in its operation to the clause, sentence, paragraph, subdivision, or part of this section, or (ii) in its application to the person, firm or corporation, or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

§9-g. Right of set off.

1. No banking institution shall assert, claim or exercise any right of set off against any deposit account into which social security or supplemental security income payments are deposited pursuant to an agreement with such banking institution which provides that such payments be deposited directly into such deposit account without presentation to the depositor at the time of deposit.

2. No banking institution shall assert, claim or exercise any right of set off against any other deposit account held by such banking institution unless, prior to or on the same business day of such action, notice of the set off together with the reasons for the set off are mailed to the depositor.

3. Failure to provide the notice required by this section shall not be deemed to affect the validity of the right of set off.

4. “Banking institution” as used in this section shall have the same meaning as used in section nine-f of this chapter.

5. “Depositor” as used in this section shall include shareholders in state and federal savings and loan associations and state and federal credit unions.

6. “Deposit account” as used in this section shall include shares and share accounts of state and federal savings and loan associations and state and federal credit unions.

7. If any provision of this section, or the application of such provision to any bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, credit union, federal credit union or branch of a foreign banking corporation, shall be held invalid, the remainder of this section, and the application of such section to banks, trust companies, national banks, savings banks, federal mutual savings banks, savings and loan associations, federal savings and loan associations, credit unions, federal credit unions or branches of foreign banking corporations other than those to which it is held invalid, shall not be affected thereby.

§9-h. Imposition of service charges prohibited.

No banking organization shall impose any service charge with respect to any deposit account as a result of the loss of a check or money which is properly deposited with the banking organization by delivery to an employee of the banking organization for credit to the deposit account and for which a written receipt is issued by the employee.

§9-i*. Close-out fees prohibited in certain cases.

No banking institution, as that term is defined in section nine-f of this chapter, shall charge its customers a fee for the withdrawal of all funds from any account resulting in the closing of such account provided that such account was opened for a period of at least one hundred eighty consecutive days prior to its closing.

§9-i*. Prohibition on depositor of early withdrawal penalty in certain cases.

No banking institution, as that term is defined in section nine-f of this chapter, shall impose any penalty for the repayment of a time deposit prior to maturity where the depositor has died or been declared legally incompetent.

§9-j. Disposal of records; customer accounts.

1. Every banking institution, which for purposes of this section means a bank, trust company, savings bank, savings and loan association, licensed foreign banks and credit unions, with respect to written records no longer required or needed to be retained which contain information relating to an identified customer or an identified customer's depository or loan account, shall in disposing of such records provide procedures and processes reasonably calculated to assure destruction or disposal in a manner which prevents subsequent unauthorized review or reuse of the record.

2. The superintendent shall enforce the provisions of this section by appropriate rules, regulations and orders.

§9-k. Sale of education loans.

1. "Banking institution" as used in this section shall mean and include all banks, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations whether incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States.

2. "Lender" as used in this section shall mean and include:

(a) a national or state chartered bank, mutual savings bank, savings and loan association, or credit union that:

(1) is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the state in which its principal place of operation is established; and

(2) does not make or hold loans to students under the federal guaranteed student loan program that total more than one-half of its consumer credit loan dollar volume, including home mortgages, unless it is a bank that is wholly owned by a state; or

(b) a pension fund as defined in the federal employees retirement income security act; or

(c) an insurance company that is subject to examination and supervision by an agency of the United States or a state; or

(d) in any state, a single agency of the state or a single private nonprofit agency designated by the state; or

* NB There are 2 §9-i's.

(e) for purposes only of purchasing and holding loans made by other lenders under the federal guaranteed student loan program, the student loan marketing association or an agency of any state functioning as a secondary market.

3. "Guaranteed education loan" as used in this section shall mean and include any loan made for the purpose of financing higher education which is made under the authority of Part B of Title IV of the Higher Education Act of 1965 as amended or under the authority of section six hundred eighty of the education law.

4. Whenever a banking institution or other eligible lender as such terms are defined in this section sells a guaranteed education loan to another banking institution or eligible lender, such selling institution shall notify the borrower in writing within fifteen days of such sale. Such notice shall include the name and address of the institution which has purchased such loan. The selling institution shall also notify the New York state higher education services corporation or other guarantor of such sale. Notice shall include:

- (a) the name and address of the institution which has purchased the loan; and
- (b) the name, address and social security number of the borrower and the borrower's account number.

§9-m. Return of checks.

Any banking institution as that term is defined in section nine-f of this chapter, except a credit union, and any other financial institution which offers consumer accounts, meaning accounts established by natural persons primarily for personal, family or household purposes, which can be accessed by check, negotiable order of withdrawal, or other similar written instrument, shall offer a consumer account on which the cancelled checks, negotiable orders of withdrawal, or other similar instruments drawn on that account are returned to the customer with a periodic statement of the account.

§9-n. Trust accounts; address of beneficiary.

1. Every banking institution, which for the purposes of this section means a bank, trust company, savings bank, savings and loan association, licensed foreign bank or credit union, which shall hold accounts by depositors in such depositor's own name and, further, in trust for a third party beneficiary or beneficiaries, shall make a written record of the address of any such beneficiary or beneficiaries at the time a trust account is established.

2. The superintendent shall enforce the provisions of this section by appropriate rules, regulations and orders.

§9-o. Mortgage loans; disclosure form.

1. For the purpose of this section, the following terms shall have the following meanings:

(a) "Mortgage lending institution" shall mean an insurance company, 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 other state, with the power to make mortgage loans. Mortgage lending institution shall include a subsidiary of such entity.

(b) "Mortgage banker" shall mean a person or entity who or which is licensed pursuant to section five hundred ninety-one of this chapter to make mortgage loans in this state.

2. Every mortgage lending institution and mortgage banker which originates

loans secured by real property used for residential purposes located in this state shall provide a separate disclosure form with each application that shall contain a provision stating whether the interest rate of such loan shall be the interest rate in effect at the time of application, the time of commitment, the time of closing or at such other period of time as shall be determined by the lending institution. The banking board shall promulgate rules and regulations to implement the provisions of this section.

HISTORICAL NOTE

Subd. 2 am'd by L.1990, ch. 415, §1 eff. July 10, 1990.

§9-p. **Acceptance of certain checks for deposit.**

No banking institution as that term is defined in section nine-f of this chapter shall, as a policy or general practice, refuse to accept as a deposit made with a teller by an account holder a check for the sole reason that it contains two endorsements. Nothing contained herein shall prevent a banking institution from requiring the approval of an officer or manager as a condition of accepting a check with two endorsements for deposit or from refusing to accept a deposit of a check with two endorsements that is not made with a teller.

HISTORICAL NOTE

Sec. renumb. L.1994, ch. 1, §4 eff. Jan. 31, 1994, former §9-o.

§9-q. **Small business and small farm loans.**

By September thirtieth of each year, the superintendent shall make a report to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate standing committee on banks, and the chairman of the assembly standing committee on banks, of the aggregate outstanding loans made to small businesses and small farms as reported in the periodic reports of financial condition filed by banking institutions located in this state with the appropriate federal bank regulatory agency. The superintendent's report shall be available to the public. For purposes of this section, "banking institution" means any bank, trust company, savings bank, savings and loan association, or branch of a foreign banking corporation the deposits of which are insured by the Federal Deposit Insurance Corporation, which is incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States.

HISTORICAL NOTE

Sec. added L.1994, ch. 1, §4 eff. Jan. 31, 1994.

§9-r. **Geographic restrictions.**

1. No banking institution shall have a policy or general practice of refusing to open a deposit account solely on the basis of the geographic location of the depositor's residence or place of business; provided that the banking office at which the depositor seeks to open the account is within the county or, in the case of a county wholly contained within a city, the city in which such residence or place of business is located. For purposes of this section, "banking institution" means any bank, trust company, savings bank, savings and loan association, or branch of a foreign banking corporation the deposits of which are insured by the federal deposit insurance corporation, which is incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States.

2. Nothing herein contained shall prevent a banking institution from requiring any person applying for a deposit account to demonstrate that the residence or place of business of such person is located within the same county or city, or

prevent a banking institution from taking actions necessary to verify such person's residence or place of business, so as to avoid being considered in violation of any law of the United States or of this state which has as its purpose the prevention of money laundering or other criminal or fraudulent acts, including, without limitation, 12 USC §1829b (Bank Secrecy); 18 USC §1341 (Frauds and Swindles); 18 USC §1342 (Fictitious Name or Address); 18 USC §2113 (Bank Robbery and Incidental Crimes); 31 USC §5311 through §5326 (Records and Reports on Monetary Instruments Transactions).

HISTORICAL NOTE

Sec. added L.1994, ch. 1, §5 eff. Jan. 51, 1994.

§9-s. Preauthorized electronic fund transfers.

Every banking institution which provides preauthorized electronic fund transfers from consumer accounts shall, in accordance with regulations adopted by the banking board, provide consumers with the right to stop payment by giving written or oral notice within a specified period of time prior to such transfer. Any banking institution which complies with the stop payment provisions of the federal Electronic Funds Transfer Act, as such act may be amended from time to time, and any regulations adopted pursuant thereto, shall be deemed to be in compliance with the provisions of this section. For purposes of this section, "banking institution" shall mean any state or federally chartered bank, trust company, savings bank, savings and loan association or credit union, and "consumer account" shall mean an account used primarily for personal, family or household purposes.

HISTORICAL NOTE

Sec. added L.1998, ch. 550, §1 eff. Feb. 1, 1999.

§9-t. Unsolicited mail-loan checks.

1. For purposes of this section, the following terms shall have the following meanings:

(a) "lending institution" shall mean a licensed lender or a state or federally chartered bank, trust company, savings bank, savings and loan association or credit union.

(b) "mail-loan check" shall mean a check, made out to and mailed to a person by a lending institution, which, when cashed or deposited by such person, obligates such person to repay to such lending institution the amount of the proceeds of such check according to terms mailed to such recipient with such check.

2. Any lending institution which issues mail-loan checks shall:

(a) include on the face of each check issued to a non-customer a written statement, in legible type reading "ONE FORM OF VALID PHOTOGRAPHIC ID NEEDED TO CASH OR DEPOSIT"; provided, however, that any entity cashing or accepting a mail-loan check for deposit may require more than one form of identification;

(b) make no reference on the outside of the envelope containing a mail-loan check that indicates that a check is enclosed within such envelope;

(c) provide that all mail-loan checks shall be non-transferable; and

(d) include an expiration date of not more than six months on the mail-loan check.

3. Any lending institution which mails a mail-loan check in violation of the provisions of this section shall be liable for a civil penalty not to exceed five hundred dollars for each such violation.

HISTORICAL NOTE

Sec. added L.2002, ch. 309, §1 eff. Oct. 5, 2002.