this article, or appropriate for the effective administration of this article.

§ 2. Section 712 of the banking law is amended by adding a new subdivision 3 to read as follows:

3. The department may also require the submission of the fingerprints of the applicant, which may be submitted to the division of criminal justice services and the federal bureau of investigation for state and national criminal history record checks.

§ 3. This act shall take effect immediately, provided, however, that section one of this act shall take effect October 1, 2020.

PART NN

Section 1. Paragraph 2 of subsection (a) of section 104 of the financial services law is amended to read as follows:

(2) "Financial product or service" shall mean: (A) any financial product or financial service offered or provided by any person regulated or required to be regulated by the superintendent pursuant to the banking law or the insurance law or any other financial product or service offered or sold to consumers [except financial products or services: (i) regulated under the exclusive jurisdiction of a federal agency or authority, (ii) regulated for the purpose of consumer or investor protection by any other state agency, state department or state public authority, or (iii) where rules or regulations promulgated by the superintendent on such financial product or service would be preempted by federal law] or small businesses; [and]

(B) the sale or provision to a consumer or small business of any security, investment advice, or money management device;

(C) any warranty sold or provided to a consumer or small business or any guarantee or suretyship provided to a consumer;

(D) any merchant cash advance provided to a consumer or small business; or

(E) any contract involving any provision of subparagraphs (A) through (D) of this paragraph.

"Financial product or service" shall [also] not include [the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default] financial products or services where the rules or regulations promulgated by the superintendent on such financial products or services would be preempted by federal law.

§ 2. Subsection (a) of section 104 of the financial services law is amended by adding a new paragraph 6 to read as follows:

(6) "Small business" shall mean a business which is independently owned and operated, has less than ten million dollars in annual gross receipts or sales, and employs one hundred or less persons.

§ 3. Subsection (a) of section 206 of the financial services law is amended and a new subsection (g) is added to read as follows:

(a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all direct and indirect costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated

under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end of the fiscal year for which the assessment is made (less return premiums and considerations thereon) for policies or contracts of insurance covering property or risks resident or located in this state the issuance of which policies or contracts requires a license from the superintendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. Persons regulated under this chapter shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulated persons under this chapter in such proportions as the superintendent shall deem just and reasonable. Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section

seven thousand four hundred eight of the insurance law, and upon any regulated person under this chapter and the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(g) The expenses of every examination of the affairs of any regulated person subject to this chapter, shall be borne and paid by such regulated person so examined, but the superintendent, with the approval of the comptroller, may, in the superintendent's discretion for good cause shown, remit such charges.

§ 4. The financial services law is amended by adding a new section 312 to read as follows:

§ 312. Restitution. In any administrative proceeding or judicial action brought under this chapter, the banking law, or the insurance law, the superintendent may, in addition to any other penalty or sanction imposed by law, order the individual or entity subject to such proceeding or action to make restitution to all consumers harmed by such individual or entity's conduct.

§ 5. The financial services law is amended by adding a new section 313 to read as follows:

§ 313. Unlicensed actors. Any person or entity that is required by this chapter, the banking law, or the insurance law to be licensed, certified, registered, authorized, chartered, accredited, or incorporated and that is not specifically exempted from such applicable law shall be subject to the laws of this chapter, the banking law, and the insurance law, and the penalties contained therein as if such person or entity was so licensed, certified, registered, authorized, chartered, accredited, or incorporated, even if such person or entity does not possess the required license, certification, registration, authorization, charter, accreditation, or incorporation.

§ 6. Subsection (a) of section 408 of the financial services law is amended to read as follows:

(a) In addition to any civil or criminal liability provided by law, the superintendent may, after notice and hearing, levy a civil penalty:

(1) not to exceed the greater of five thousand dollars [per] for each offense[,]; a multiple of two times the aggregate damages attributable to the offense; or a multiple of two times the aggregate economic gain attributable to the offense for:

(A) any [intentional] fraud, [or intentional] misrepresentation [of a material fact], or unfair, deceptive, or abusive act or practice with respect to a financial product or service or involving any person offering to provide or providing financial products or services or involving any service provider utilized by any person offering to provide or providing financial products or services; or

(B) any violation of state or federal fair debt collection practices or federal or state fair lending laws; [and] or

[(2) not to exceed one thousand dollars for] (C) any other violation of this chapter or the regulations issued thereunder, provided that

there shall be no civil penalty under this section for violations of article five of this chapter or the regulations issued thereunder; and

[(3)] (2) provided, however, that:

(A) penalties for regulated persons under the banking law shall be as provided for in the banking law and penalties for regulated persons under the insurance law shall be as provided for in the insurance law; and

(B) the superintendent shall not impose or collect any penalty under this section in addition to any penalty or fine for the same act or omission that is imposed under the insurance law or banking law; and

(C) nothing in this section shall affect the construction or interpretation of the term "fraud" as it is used in any other provision of the consolidated or unconsolidated law.

§ 7. Paragraph 1 of subsection (c) of section 109 of the insurance law, as amended by section 55 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(1) If the superintendent finds after notice and hearing that any authorized insurer, representative of the insurer, licensed insurance agent, licensed insurance broker, licensed adjuster, or any other person or entity licensed, certified, registered, or authorized pursuant to this chapter, has wilfully violated the provisions of this chapter or any regulation promulgated thereunder, then the superintendent may order the person or entity to pay to the people of this state a penalty in a sum not exceeding [one] ten thousand dollars for each offense.

§ 8. This act shall take effect immediately.

PART OO

Section 1. The banking law is amended by adding a new section 4-d to read as follows:

§ 4-d. Protecting vulnerable adults from financial exploitation. 1. Definitions. As used in this section:

(a) "Banking institution" means any bank, trust company, savings bank, savings and loan association, credit union, or branch of a foreign banking corporation, which is chartered, organized or licensed under the laws of this state or any other state or the United States, and, in the ordinary course of business takes deposit accounts in this state.

(b) "Vulnerable adult" means an individual who, because of mental and/or physical impairment is potentially unable to manage his or her own resources or protect himself or herself from financial exploitation.

(c) "Financial exploitation" means: (i) the improper taking, withholding, appropriation, or use of a vulnerable adult's money, assets, or property; or (ii) any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a vulnerable adult to: (A) obtain control, through deception, intimidation or undue influence, over the vulnerable adult's money, assets, or property or (B) convert the vulnerable adult's money, assets, or property.

(d) "Transaction hold" means a delay in the completion of one or more financial transactions pending an investigation by a banking institution, adult protective services, or a law enforcement agency.

(e) "Adult protective services" means the division of the New York City Human Resources Administration and each county's department of human services or department of social services responsible for providing adult protective services pursuant to section four hundred seventy-three of the social services law.

(f) "Law enforcement agency" means any agency, including the financial frauds and consumer protection unit of the department of financial services, which is empowered by law to conduct an investigation or to make an arrest for a felony, and any agency which is authorized by law to prosecute or participate in the prosecution of a felony.

2. Application of transaction hold. (a) If a banking institution reasonably believes: (i) that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) that the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation, then the banking institution may, at its discretion, apply a transaction hold on the account of a vulnerable adult, the account on which a vulnerable adult is a beneficiary, including a trust or guardianship account, or the account of a person who is reasonably believed by the banking institution to be engaging in the financial exploitation of a vulnerable adult.

(b) A banking institution may also apply a transaction hold on the account of a vulnerable adult, the account on which a vulnerable adult is a beneficiary, including a trust or guardianship account, or the account of a person who is reasonably believed by the banking institution to be engaging in the financial exploitation of a vulnerable adult, if: (i) adult protective services or a law enforcement agency provides information to the banking institution establishing a reasonable basis to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation.

(c) A banking institution that applies a transaction hold shall:

(i) make a reasonable effort to provide notice, orally or in writing, to all parties authorized to transact business on the account on which a transaction hold was placed within two business days of when the transaction hold was placed;

(ii) immediately, but no later than one business day after the transaction hold is placed, report the transaction hold, including the basis for the banking institution's belief that the financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, to adult protective services and to a law enforcement agency;

(iii) at the request of adult protective services or a law enforcement agency, provide all information and documents that relate to the transaction hold within three business days of the request for the information or documents; and

(iv) notwithstanding the transaction hold, make funds available from the account on which a transaction hold is placed to allow the vulnerable adult or other account holder to meet his or her ongoing obligations such as housing and other living expenses or emergency expenses as determined by adult protective services, a law enforcement agency or a not-for-profit organization that regularly provides services to vulnerable adults in the community in which the vulnerable adult resides.

(d) During the pendency of a transaction hold, a banking institution may, in its discretion, also make funds available from the account on which a transaction hold is placed to allow the vulnerable adult or other account holder to meet his or her ongoing obligations such as housing and other living expenses or emergency expenses, provided the banking institution does not have a reasonable basis to believe that the

dispersal of such funds to the vulnerable adult or other account holder will result in the financial exploitation of the vulnerable adult. Any such dispersal of funds pursuant to this subdivision shall be reported within one business day after the dispersal is made to adult protective services and to a law enforcement agency.

(e) The superintendent may adopt regulations identifying the factors that a banking institution should consider in determining whether: (i) the financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) the placement of a transaction hold is necessary to protect a vulnerable adult's money, assets, or property.

3. Duration of transaction hold. (a) Subject to paragraphs (b), (c) and (d) of this subdivision, a transaction hold that a banking institution places on an account pursuant to this section shall terminate five business days after the date on which the transaction hold is applied by the banking institution. A banking institution may terminate the transaction hold at any time during this five day period if the banking institution is satisfied that the termination of the transaction hold is not likely to result in financial exploitation of a vulnerable adult.

(b) A transaction hold may be extended beyond the period set forth in paragraph (a) of this subdivision for up to an additional fifteen days at the request of either adult protective services or a law enforcement agency.

(c) A transaction hold may be extended beyond the periods set forth in paragraphs (a) and (b) of this subdivision only pursuant to an order issued by a court of competent jurisdiction.

(d) A transaction hold may be terminated at any time pursuant to an order issued by a court of competent jurisdiction.

4. Immunity. A banking institution or an employee of a banking institution shall be immune from criminal, civil, and administrative liability for all good faith actions in relation to the application of this section including any good faith determination to apply or not apply a transaction hold on an account where there is reasonable basis to conclude:

(a) that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and

(b) that the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation, such immunity shall not apply to a determination not to apply a transaction hold when the banking institution or employee acts recklessly or engages in intentional misconduct in making the determination, or the determination results from a conflict of interest.

5. Certification program. The department may develop a financial exploitation certification program for banking institutions. Upon completion of the training components required by the program and after establishing the necessary internal policies, procedures, and in-house training programs, a banking institution shall receive from the department an adult financial exploitation prevention certificate demonstrating that staff at such banking institution have been trained on how to identify, help prevent, and report the financial exploitation of a vulnerable adult. At the discretion of the superintendent, the certification program may be mandatory for banking institutions licensed by the department.

6. Regulations. The superintendent may issue such rules and regulations that provide the procedures for the enforcement of the terms of

this section and any other rules and regulations that he or she deems necessary to implement the terms of this section.

§ 2. This act shall take effect October 1, 2020; provided, however, that the superintendent of financial services may promulgate any rules or regulations related to this act immediately.

PART PP

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 30 to read as follows:

TITLE 30

EXPANDED POLYSTYRENE FOAM CONTAINER AND POLYSTYRENE LOOSE FILL PACKAGING BAN

Section 27-3001. Definitions.

27-3003. Expanded polystyrene foam container and polystyrene loose fill packaging ban.

27-3005. Exemptions.

27-3007. Preemption.

27-3009. Severability.

§ 27-3001. Definitions.

For the purposes of this title, the following terms shall have the following meanings:

1. "Covered food service provider" means a person engaged in the primary or secondary business of selling or distributing prepared food or beverages for on-premise or off-premise consumption including but not limited to: (a) food service establishments, caterers, temporary food service establishments, mobile food service establishments, and push-carts as defined in the New York State Sanitary Code; (b) retail food