

VETO MESSAGE:

VETO MESSAGE - No. 10

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9872, entitled:

"AN ACT to amend chapter 591 of the laws of 2001 amending the banking law relating to limiting the check cashing exemption for national banks and other regulated entities, in relation to the effectiveness of such chapter"

NOT APPROVED

Since 1994, licensed check cashing companies have been prohibited from opening up new check cashing facilities within three-tenths of a mile of an existing licensed check cashing facility. In 2002 this ban was extended, on a temporary basis, to prohibit national banks, as well as banks, thrift institutions, credit unions and other entities regulated under the Banking Law, from operating a separate branch used primarily for check cashing within three-tenths of a mile of a licensed check cashing location. In 2005, and again in 2008, these provisions were extended and are currently scheduled to sunset in August, 2010. The bill before me today would make these provisions permanent.

In May 2007, Governor Spitzer vetoed S.827 (Farley)/A.4204 (Towns). That bill, like the bill before me today, would have made permanent the geographical limitations on national banks, state banks, thrift institutions, credit unions and other entities in operating stand-alone check cashing facilities. Governor Spitzer directed the Banking Department to: (1) undertake a study to determine the impact of both the fee limits and geographical restrictions on present industry participants and potential new entrants to the industry; and (2) make recommendations as to whether the current geographical limitations should be abolished, altered, or made permanent in their present form.

On November 20, 2007, the Banking Department ("Department") issued a report and recommendation on the geographic and fee restrictions imposed on locations used primarily for the cashing of checks. The Department concluded in its report that the check cashing industry was in a state of flux as a result of cost pressures and the departure of funding sources. The Department therefore recommended at the time that no changes be made to the geographical limitations or fee limits. Based on the recommendation of the Department, the provisions were extended to August 2010.

The Department has now advised me that the industry continues to be in a state of flux. The Department therefore continues to believe that it is still too early to make a final determination about whether to allow unfettered price and geographic competition among stand-alone check cashing facilities in the State or to make the geographical limitations permanent. Under these circumstances, I believe it would be unwise to write the present restrictions into permanent law. Nonetheless, although I am disapproving the bill before me to day, I would encourage the Legislature to pass a bill that would again enact a limited extension of the sunset provision, perhaps an additional year, so that we may reassess the value of these provisions.

The bill is disapproved.

(signed) DAVID A. PATERSON

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