

NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER



2014 ANNUAL REPORT



Committee on
Banks

Annette M. Robinson, Chairwoman



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

COMMITTEES
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Children and Families
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Investigation
Real Property Taxation
Small Business

ANNETTE M. ROBINSON
Assemblywoman 56th District
Kings County

CHAIR
Banks Committee

December 15, 2014

The Honorable Sheldon Silver
Speaker of the Assembly
State Capitol, Room 349
Albany, NY 12248

Dear Speaker Silver:

I am pleased to submit the 2014 Annual Report for the Assembly Standing Committee on Banks.

The Standing Committee on Banks made significant progress during the 2014 legislative session despite the challenge of a dual banking charter. The Committee reported legislation that aimed to maintain and enhance the vitality of our State's financial industry, to protect consumers' financial interests and rights, to foster competition, and to ensure sound operations within the industry.

The laws enacted in 2014 will authorize New York State financial institutions to utilize promotional offers to help encourage individuals to save money (Chapter 370); ensuring the continued availability of Federal Housing Administration (FHA) loans for New Yorkers (Chapter 469); supporting parity between federally-and state-chartered financial institutions (Chapter 113); promoting financial literacy and education by establishing the Financial Literacy Fund Program within the New York State Summer Youth Employment Program Act (Chapter 421); and establishing consistent recordkeeping standards for our State's financial institutions (Chapter 341).

It is a pleasure serving as Chairwoman of the Assembly Banks Committee. I greatly appreciate your continued support and encouragement, the cooperation of my Assembly colleagues especially those who are Banks Committee members, and the hard work and dedication of our Committee staff.

I am looking forward to a productive **2015** Legislative Session.

Sincerely,

Annette M. Robinson, Chairwoman
Assembly Banks Committee

**2014 ANNUAL REPORT
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON BANKS**

Annette M. Robinson
Chairwoman

Banks Committee Members

Majority

Harvey Weisenberg
N. Nick Perry
William Magee
Peter J. Abbate, Jr.
William Scarborough
Karim Camara
Micah Kellner
Michael Miller
David Weprin
Robert Rodriguez
Aravella Simotas
Sean Ryan
Michael Kearns
Gabriela Rosa
Luis R. Sepulveda
Walter T. Mosley
Mark Gjonaj
Patricia Fahy

Minority

Claudia Tenney,
Ranking Minority Member
Andrew P. Raia
Brian Curran
Nicole Malliotakis
Joseph Borelli
Andrew R. Garbarino
Dan Stec
Raymond Walter

Staff

James Larson, Assistant Secretary for Program and Policy
Teri Kleinmann, Associate Counsel
Yolanda Bostic-Williams, Principal Analyst
Matthew Aumand, Committee Assistant
Virginia Rawlins, Committee Clerk
Kathleen Quackenbush, Program and Counsel Secretary

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I. Introduction

The New York State Assembly Standing Committee on Banks was established in order to review and initiate legislation that affects financial institutions that operate in New York State. The Committee's statutory purview includes the Banking Law, the General Obligations Law, the Uniform Commercial Code, and the Personal Property Law. Entities under the Banking Law jurisdiction include banks, trust companies, safe deposit companies, savings banks, savings and loan associations, credit unions, bank holding companies, sales finance companies, licensed lenders, licensed cashers of checks, money transmitters, budget planners, mortgage brokers, mortgage bankers, insurance premium finance agencies, and foreign and private banks.

The bills within the Banks Committee address a broad range of banking concerns including maintaining the competitive balance among financial institutions, protecting customers' interests, providing housing finance, and modifying banking regulations and administration.

During the 2014 legislative session, 73 bills were considered by the Banks Committee. Of these bills, 17 were reported favorably by our committee, 10 passed the Assembly, 5 were signed into law and 0 were vetoed.

II. Major Issues of 2014

During the 2014 Legislative Session, the Committee on Banks addressed a number of significant issues in order to meet the challenge of protecting the consumers' interests while maintaining the strength of New York State's banking industry. These significant issues include increasing consumer protection, enhancing the safety and soundness of the banking industry, and ensuring access to financial services.

A. Industry Issues

1. Municipal Deposits

A.4520 (Weisenberg)/S.3161 (Martins)

Authorizing savings banks, savings & loans, and credit unions to accept municipal deposits would be beneficial to the communities they are serving by offering a competitive alternative to commercial banks, which are often a large corporate entity with no affiliation or commitment to the communities they serve.

This bill would expand which banking organizations can accept municipal deposits by authorizing deposits of municipal funds in credit unions, savings and loan associations, and federal savings and loan associations with a \$250,000 dollars cap per depository.

This bill was reported to Assembly Ways and Means Committee.

2. Strengthening the Banking Development District Program

A.6877-A (Robinson)/S.2495-A (Griffo)

The present federal and state Community Reinvestment Act (CRA) requires the supervisory agency in which a financial institution is chartered to assess the institution's record of helping to meet the credit needs of the entire community, including low-and-moderate income neighborhoods.

New York State law requires the Department of Financial Services to provide a numerical CRA "rating" of each bank under their supervision. This bill would require the assessment to also include a separate explanation of the record of the bank pertaining to each of the twelve individual assessment factors listed under the CRA, with a separate discussion of how well the bank satisfied each factor.

This bill was advanced to the third reading on the Assembly Calendar.

3. Reviewing of Banking & Financial Services within Low Income Communities

A. 5175-C (Crespo)/S.4659-B (Squadron)

This bill would require the Department of Financial Services to study and report on the various banking products and services offered in low-income communities by state-chartered financial institutions.

This bill passed the Assembly.

4. Pension Loan Advancements
A.7332-A (Rodriguez)/S.5716-A (Griffo)

Pension “advancements” provide borrowers a lump cash sum in exchange for a percentage of the borrower’s future pension payments and is normally paid back in monthly installments. However, these “advancements” have interest rates between 27 and 106 percent, making these types of loans predatory.

Presently, this is an unregulated market and unfortunately, many those individuals being targeted have fixed-incomes, including military veterans and seniors.

This bill would give greater transparency to the practices of businesses engaged in pension loan advancements by authorizing the DFS to examine the licensure of, limits on fees and interest, and disclosure practices relating to the business practice of providing pension loan advancements. In addition, this bill would also require the Department to publicly report their findings to the Legislature.

This bill passed the Assembly.

5. Wild Card Extension
A.9057 (Robinson)/S.6735 (Griffo)
Chapter 113 of the Laws of 2014

Chapter 3 of the Laws of 1997, otherwise known as the “Bank Parity Law” or “Wildcard,” was landmark legislation applicable to banks, trust companies, and national banks, originally authorizing the Banking Board (now in the Superintendents power after the creation of the DFS) to grant to state-chartered banks the powers granted by federal law to national banks. Designed to assure continued attractiveness of the State banking charter, it was also a first step in permitting and providing for the orderly integration of institutions in the financial services industry in New York.

This law extends for five years the authority of the Superintendent of the Department of Financial Services to allow state chartered banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights and powers of federally chartered banks.

6. Restoring the Availability of Mortgage Financing
A.9539 (Morelle)/S.7224 (Griffo)
Chapter 469 of the Laws of 2014

Policy changes made by the Federal Housing Administration (FHA) in 2013 have inadvertently created a situation where a significant number of FHA-insured mortgage loans would exceed the subprime threshold established in state law in 2008. This raises significant concerns about the ability of potential homeowners to utilize this federal program, since lenders and secondary market participants have been extremely reluctant

to make any loans which are designated as "subprime," given the potential financial and reputational risk of such loans.

As a practical matter, this means that significantly more FHA-insured loans would exceed the threshold specified in Section 6-m of New York's Banking Law, and therefore be deemed 'subprime' loans.

DFS determined that the FHA rule change had effectively decreased the threshold on these FHA-insured loans, resulting in an unduly negative effect on the availability of mortgage financing. In order to address these concerns, the Department issued a temporary order in July 2013 regarding the method for calculating the APR on FHA loans. The Department then issued an emergency rule making in October 2013 which adjusted the subprime threshold by 75 basis points for affected FHA-insured loans only.

This bill enacts the emergency rules into statute by helping to stabilize the market and provide certainty to both lenders and borrowers regarding the continued availability of FHA-insured home loans.

B. Regulatory Issues

1. Notification of Financial Institutions Procedures

A.8692-A (Robinson)

When financial institutions provide notices that inactivity fees are to be charged to customers' accounts, they also should provide customers with contact information adequate to enable to resolve any inaccuracies contained within such notices.

This bill would require financial institutions to notify customers in writing thirty days prior to changing a fee based on account inactivity. In addition, this bill would also require the written notice to include a telephone number and full contact information for representative of the financial institution responsible for resolving any matter relating to the fee.

This bill advanced to third reading on the Assembly Calendar.

2. Expanding Credit Union Memberships

A.9408 (Robinson)/S.7112 (Griffo)

This bill would make various amendments to the Banking Law governing credit unions to provide parity with federal law and regulations. Specifically, this bill would allow state-chartered credit unions to apply to the Superintendent of the Department of Financial Services (DFS) to request membership that includes select employee groups (SEGs), associations and communities within a single field of membership.

This bill passed both houses.

C. Consumer Products, Protection, and Convenience

1. Protecting Consumers from Fraudulent Wire Transfers A.156-A (Nolan)/ S.606-A (Gianaris)

This bill would require all transmitters of money by wire or electronic transfer to clearly and prominently warn customers about fraud prior to completing the transfer. In addition, this bill provides flexibility for those entities that are already providing notice, as well as bring in those entities that presently do not warn customers of the potential of consumer fraud. Educating and informing those individuals wiring money regarding the various frauds and schemes that presently are occurring (lottery winnings, credit card guarantees...etc.) will hopefully prevent other New York consumers from being victims of fraud.

This bill advanced to third reading on the Assembly Calendar.

2. Protecting Account Holders from Harsh Account Penalties A.3511 (Robinson) /S.1156 (Breslin)

Under current law, if a check is presented to a banking institution for a customer maintaining a checking account in that banking institution which exceeds the funds available in the account, the check is dishonored as are all subsequent checks received by that bank. This occurs even if there are sufficient funds in the account to honor one or more of the subsequent checks.

This bill would require the banks to honor checks in the order received, provided that if a check is dishonored due to insufficient funds, any subsequent smaller check, which can be paid, must be honored with the amount on deposit.

This bill advanced to third reading on the Assembly Calendar.

3. Expanding Financial Service Options for Underserved Communities A.8693 (Robinson)

The Legislature created the Banking Development District (BDD) program in 1997 to encourage banks to establish branches in areas that demonstrate a need to enhanced banking services.

This bill would expand financial service options for underserved banking communities by including credit unions and federal credit unions as eligible participating financial institutions in the Banking Development District Program (BDD). In addition, it would allow a credit union or federal credit union to include in its membership any person or organization located in a community, neighborhood, or rural district with a demonstrated

need for banking services, as determined by the Superintendent of the Department of Financial Services (DFS).

This bill advanced to third reading on the Assembly Calendar.

4. Encouraging Savings Accounts
A.9037-A (Robinson)/S.6805-B (Lanza)
Chapter 370 of the Laws of 2014

This law authorizes New York State financial institutions to utilize promotional offers to incentivize banking customers to save money. These offers would be considered a “Savings Promotion” as a contest or promotion sponsored by a banking organization in which a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account, share account, share certificate, or other savings products or program.

5. Financial Literacy Education
A.9199-F (Crespo)/S.7344-D (Grisanti)
Chapter 421 of the Laws of 2014

Financial education and counseling helps people learn how to protect themselves from unfair and deceptive banking practices, and helps people to understand and adhere to sound credit practices. By starting early, young people can learn the importance and power of saving, and the positive and productive role money can play in their lives. Having a basic understanding of money management from an early age will make our young people better equipped to tackle more complex financial decisions in their transition to adulthood, when critical decisions about financing higher education and saving for retirement can have lasting consequences for financial security.

This law promotes financial literacy by establishing a financial literacy education workshop within the New York State Summer Youth Employment Program.

III. Banking Committee 2015 Outlook

The Assembly Majority and the Committee's pursuit of consumer protection initiatives are taken in order to provide a fair playing field for both consumers and financial institutions. The New York State Assembly Standing Committee on Banks will continue to pursue an agenda that responds to the banking industry and consumers' needs and concerns.

During the 2015 legislative session, the Assembly Banks Committee will continue in its efforts to create legislation that increases financial literacy and protects financial institutions and consumers from theft and fraud. The Committee will also examine safe alternative financial products to unmet short-term lending needs in communities throughout New York, as well as the ongoing protection of the elderly from financial exploitation.

The Bank Committee will continue to work on strengthening the state banking charter not only for our state-chartered banks doing business here, but for other banking institutions that may be considering obtaining state charter in New York. New York is the financial capital of the United States, and a strong state banking charter is an important asset to its continued strength.

The Committee will also continue to work to create legislative improvements to the Banking Development District Program. These improvements will aid financial institutions in offering banking services to underbanked communities in order to help individuals and small businesses who are in need of affordable banking products and services.

**APPENDIX A
SUMMARY OF ACTIONS ON ALL BILLS
REFERRED TO THE COMMITTEE ON BANKS
DURING THE 2014 LEGISLATIVE SESSION**

Final Action	Assembly Bills	Senate Bills	Total Bills
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	2		2
To Floor; Recommitted and Died			
To Ways & Means Committee	6		6
To Codes Committee	3		3
To Rules Committee	4		4
To Judiciary	0		0
Total	15		15
<u>Bills Having Committee Reference Changed</u>			
To Judiciary Committee	0	0	0
Total	0	0	0
<u>Senate Bills Substituted or Recalled</u>			
Substituted	0	2	2
Recalled	0	0	0
Total	0	2	2
<u>Bills Held in Committee</u>	1		1
<u>Bills Never Reported, Died in Committee</u>	50	9	59
<u>Bills Having Enacting Clauses Stricken</u>	7		7
<u>Motions to Discharge Lost</u>	0		0
TOTAL BILLS IN COMMITTEE	73	11	84

Total Number of Committee Meetings Held: 4

APPENDIX B
SUMMARY OF FINAL ACTIONS ON BILLS
REPORTED BY THE BANKS COMMITTEE

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.156-A (Nolan)	S.606-A (Gianaris)	Advanced to 3rd Reading	Requires all transmitters of money by wire or electronic transfer to clearly and prominently warn customers about fraud prior to completing the transfer.
A.3511 (Robinson)	S.1156 (Breslin)	Advanced to 3rd Reading	Requires banking institutions maintaining a checking account for a customer to pay checks in the order received, provided that if a check is dishonored due to insufficient funds, any subsequent smaller check which can be paid must be honored with the amounts on deposit.
A.4520 (Weisenberg)	S.3161(Martins)	Advanced to 3rd Reading	Would authorize local governments to make investments in savings banks, savings and loan associations, and credit unions.
A.5175-C (Crespo)	S.4659-B (Squadron)	Passed Assembly	Requires a study and report on various banking products and services offered in low-income communities by state-chartered financial institutions.
A.6877-A (Robinson)	S.2495-A (Griffo)	Advanced to 3 rd Reading	Enhances the Banking Development District (BDD) program by clarifying the criteria by which a branch's renewal is granted. This bill would also require all designated BDD banks to offer affordable products and services.
A.7332-A (Rodriguez)	S.5716-A (Griffo)	Passed Assembly	Would direct DFS to study, evaluate and make recommendation concerning businesses engaged in pension loan advancements.
A.8692-A (Robinson)	No Senate Sponsor	Amended on 3 rd Reading	Requires financial institutions to notify customers in writing thirty days prior to changing a fee based on account inactivity. This bill would also require the written notice to include a telephone number and full contact information for a representative of the financial institution responsible for resolving any matter relating to the fee.
A.8693 (Robinson)	No Senate Sponsor	Ordered to 3 rd Reading	Would expand financial service options for underserved banking communities by including credit unions in the Banking

			Development District Program (BDD).
A.9037-A (Robinson)	S.6805-B (Lanza)	Chapter 370	Authorizes New York State financial institutions to utilize promotional offers to incentivize banking customers to save money.
A.9057 (Robinson)	S.6735 (Griffo)	Chapter 113	Extends for five years the Wildcard provisions which support parity between federally and state-chartered financial institutions.
A.9199-F (Crespo)	S.7344-D (Grisanti)	Chapter 421	Establishes the Financial Literacy Education in the New York State Summer Youth Employment Program Act.
A. 9408 (Robinson)	S.7112 (Griffo)	Passed Both Houses	Makes various amendments to the Banking Law governing credit unions intended to provide parity with federal law and regulations. Specifically, this bill would allow credit unions to expand their "field of membership" subject to the approval of the Superintendent.
A.9539 (Morelle)	S.7224 (Farley)	Chapter 469	Ensures the continued availability of Federal Housing Administration (FHA) loans for New Yorkers.
A.9777-A (Fahy)	S.2933-B (Farley)	Chapter 341	Establishes a consistent recordkeeping standard and clarifies that DFS regulated entities may preserve records through the use of electronic storage media
A.9851 (Rosa)	S.4350-A (Farley)	Chapter 291	Makes technical corrections and fixes certain inconsistencies in the Banking Law resulting from the elimination of the Banking Board.

APPENDIX C
SUMMARY OF LAWS ENACTED DURING THE
2014 LEGISLATIVE SESSION

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.9037-A (Robinson)	S.6805-B (Lanza)	Chapter 370	Authorizes New York State financial institutions to utilize promotional offers to incentivize banking customers to save money.
A.9057 (Robinson)	S.6735 (Griffo)	Chapter 113	Extends for five years the Wildcard provisions which support parity between federally and state-chartered financial institutions.
A.9199-F (Crespo)	S.7344-D (Grisanti)	Chapter 421	Establishes the Financial Literacy Education program in the New York State Summer Youth Employment Program Act.
A.9539 (Morelle)	S.7224 (Farley)	Chapter 469	Ensures the continued availability of Federal Housing Administration (FHA) loans for New Yorkers.
A.9777-A (Fahy)	S.2933-B (Farley)	Chapter 341	Establishes a consistent recordkeeping standard and clarifies that DFS regulated entities may preserve records through the use of electronic storage media.
A.9851 (Rosa)	S.4350-A (Farley)	Chapter 291	Makes technical corrections and fixes certain inconsistencies in the Banking Law resulting from the elimination of the Banking Board.