



New York State Assembly
2011 ANNUAL REPORT

committee on
BANKS

Annette M. Robinson
Chairwoman



Sheldon Silver
Speaker

December 15, 2011

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

Dear Speaker Silver:

As the newly appointed chair of the Assembly Committee on Banks, I am pleased to submit its 2011 Annual Report.

During the 2011 legislative session, the Committee focused on the creation of the New York State Department of Financial Services, which is a merger of the Banking Department and Department of Insurance. This new entity will allow for more effective, streamlined regulation of the financial services industry, including enhancing the safety and soundness of the banking industry.

The Committee also held a roundtable in August 2011 to discuss ways to improve the Banking Development District (BDD) Program. This roundtable presented the Committee with specific ideas for strengthening the BDD Program in order to better serve the financial needs of consumers, particularly those in underserved communities.

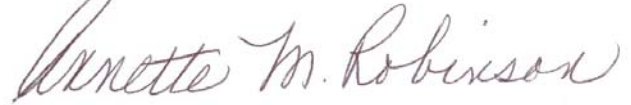
In the upcoming legislative session, the Banks Committee will seek to work closely with the Superintendent of the Department of Financial Services on legislation that may be necessary or appropriate as the new agency completes its first year of work. The Banks Committee also will continue to collaborate with the Assembly committees on Housing and Judiciary to meet the challenges posed by the substantial number of mortgage foreclosures that continue to arise and cause devastation to New York families and communities where these foreclosures are concentrated.

On behalf of the members of the Committee and my Assembly colleagues, I want to thank you for your encouragement and continued support of our efforts to protect the financial

interest of the state and its consumers. I would also like to thank my predecessor, the Honorable Darryl Towns, for his leadership and many accomplishments on behalf of the people of the State of New York. It is a pleasure serving as Chairwoman of the Assembly Banks Committee.

I am looking forward to a productive 2012 Legislative Session.

Sincerely,

A handwritten signature in cursive script that reads "Annette M. Robinson". The signature is written in a dark ink and is positioned to the right of the word "Sincerely,".

Annette M. Robinson, Chairwoman
Assembly Banks Committee

**2011 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
William F. Boyland, Jr.
Karim Camara
Alan Maisel
Rory I. Lancman
Hakeem Jeffries
Micah Kellner
Nelson L. Castro
Grace Meng
Vanessa Gibson
Michael Miller
David Weprin
Robert Rodriguez
Aravella Simotas

Minority

Andrew P. Raia,
Ranking Minority Member
Philip Boyle
Bill Reilich
Tony Jordan
Dean Murray
Brian Curran
Nicole Malliotakis
Steven F. McLaughlin
Donald R. Miller
Claudia Tenney

Staff

Giovanni Warren, Assistant Secretary for Program and Policy
Teri Kleinmann, Associate Counsel
Yolanda Bostic Williams, Principal Analyst
Danielle Schittino, Committee Assistant
Cindy Ceniviva, 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 2011 legislative session, 8 bills were considered by the Banks Committee. Of these bills, 8 were reported favorably by our committee, 7 passed the Assembly, and 6 were signed into law.

II. Major Issues of 2011

During the 2011 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. **Extending Open End Loans**
A.8102 (Castro)/S.5531 (Griffo)
Chapter 114 of the Laws of 2011

This law extends, for an additional two years, the existing authority of licensed lenders to charge annual fees for open end loans until June 30, 2013. The initial enactment of this law was in 1996 and has been extended every two years since 2005. The annual fee that is charged by licensed lenders allows them to recover some of the costs of managing the open end personal loans. These loans require increased processing, monitoring and maintenance costs, and the costs of preparing and mailing monthly billing statements. Without this annual fee the licensed lenders may increase the interest rate on these types of loans in order to recover some of the maintenance costs.

2. **Extending the Banking Development District Program**
A.8103-A (Meng)/S.5478 (Griffo)
Chapter 484 of the Laws of 2011

This law extends, for an additional five years, the participation of thrifts in the Banking Development District Program until January 1, 2017. Thrifts are defined as savings banks, savings and loan associations, federal savings banks, and federal savings and loan associations. Currently, there are four thrifts in the BDD program and five total locations.

3. **Clarifying the Definition of a Bank Holding Company**
A.8157 (Abbate)/S.5004 (Griffo)
Chapter 449 of the Laws of 2011

This law makes technical changes to Chapter 217 of the Laws of 2010 with regard to the definition of "bank holding company." It defines a "bank holding company" as two or more banking institutions. This clarifies that home office protection continues to exist for principal offices of certain banking institutions that are subsidiaries of one-bank holding companies, which are subject to home office protection. Home office protection prohibits banks or trust companies from opening a branch outside of the city or village where the principal office is located unless the proposed branch is located in the same banking district as its principal office and no other banking institution is located in such city or village.

B. Regulatory Issues

- 1. Clarifying Various Sections of the Banking Law**
A.8105 (Scarborough)/S.5464 (Griffo)
Chapter 182 of the Laws of 2011

This law amends various sections of the Banking Law (BL) to clarify, among other things, the confidentiality of supervisory information, the treatment of credit extensions and other credit exposure by a bank or trust company to one person or entity, and the references in the Banking Law to credit rating agencies and rated securities. The subdivision that authorizes the Superintendent to determine the manner and extent to which credit exposure resulting from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions and securities borrowing transactions must be taken into account by a bank for purposes of determining the lending limit is necessary in order to address section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This law also adds an examination and investigative report of licensed mortgage loan originators to the list of entities whose exam reports are confidential and removes all references to credit rating agencies or rating grades and replaces them with investment securities that meet standards of creditworthiness established by the Superintendent.

- 2. Expediting the Consideration of Wildcard Applications**
A.8156 (Lancman)/S.4612-A (Griffo)
Chapter 448 of the Laws of 2011

This law requires the Superintendent to review a wildcard application and post such application on the Banking Department's website for public consideration within 120 days of receipt of such application. It also requires the Superintendent to notify the applicant within 10 days of making a decision regarding the wildcard application, and allows the applicant to petition the Superintendent to act on the application if the superintendent fails to comply with the above stated provisions. A subsequent failure to comply by the superintendent within 30 days of the initial petition would be deemed a denial of the application and an opportunity for the applicant to appeal. Prior to the passage of this law, the Superintendent was required to notify an applicant within 45 days after the posting of the application on the bulletin board of the Department. However, if the Superintendent gave notification to the applicant, the review of the application could be extended to no later than 120 days after posting.

- 3. Regulating Actions Between Home Improvement Contractors and Mortgage Brokers**
A.1913-B (Jeffries)/S.4038-B (Savino)
Chapter 593 of the Laws of 2011

This law defines the term home improvement contractor as a person, firm or corporation which owns or operates a home improvement business or who undertakes, offers to undertake or agrees to perform any home improvement for a fee and for whom the total price for all labor, materials and other items is equal to or greater than two hundred dollars. Home improvement contractor does not include a person, firm, corporation, landlord, cooperative corporation, condominium board of managers, joint tenant or co-tenant that owns, in whole or in part, the property to be improved. This law also prohibits home improvement contractors or its employees from advertising, or arranging for the services of a mortgage broker in any transaction while soliciting home improvement contracts.

C. Consumer Products, Protection, and Convenience

1. Increasing Minimum Withdrawals for Account Holders 60 Years of Age or Older
A.3315 (Clark)/S.3652 (Smith)

This bill would increase the number of minimum withdrawal transactions from eight to twelve at no additional charge from basic banking accounts for account holders over sixty years of age.

This bill passed the Assembly.

D. Hearings & Roundtables

During the 2011 Legislative session, the Assembly Standing Committee on Banks held a roundtable and two public hearings on important banking issues.

1. Banking Development Districts

On August 23, 2011, the Assembly Standing Committee on Banks held a roundtable to discuss the Banking Development District (BDD) program. The Legislature created this successful program in 1997. In May 2010, the New York State Banking Department published a report, which was a comprehensive review of the BDD program. As a result of this report, a number of issues were identified as well as programmatic changes that may be in order. Some of the issues from the report included expanding eligibility for the program, collateralization, and financial education. The stakeholders that were involved in the roundtable included representatives from the banks within the program, New York State Banking Department, New York State Comptroller, New York City Department of Finance, New York City Department of Consumer Affairs, New York City Comptroller, and consumer groups such as New Yorkers for Responsible Lending (NYRL). The discussion for the roundtable focused on the suggestions that were made in the May 2010 report, as well as new proposals that may be beneficial to the program with a particular focus on potential legislative improvements.

2. Mortgage Foreclosures in New York

In November, the Standing Committees on Banks, Judiciary and Housing convened a public hearing to examine the mortgage foreclosure process, as well as the rate and effect of such foreclosures. Additionally, the hearing examined the effects of state programs related to foreclosure assistance on homeowners and on tenants in apartment buildings subject to foreclosure, which included a review and assessment of the impact of funds appropriated to aid homeowners facing foreclosure.

The Legislature has explored and pursued ways to address the foreclosure crisis. In 2008, the Legislature provided funding for foreclosure prevention services aimed at providing support for families facing default on sub-prime mortgages. The legislature provided additional support for the program in 2009-2010. However, the mortgage foreclosure crisis has expanded beyond the realm of sub-prime defaults. The program launched in 2008 has created and sustained a strong network of foreclosure prevention collaborations and services across the state that help prevent home loss and help stabilize communities across the state. This hearing's main directive was to examine the mortgage foreclosure process, its effect on surrounding communities and explore potential new solutions to address this continuing problem. The Committees heard informative testimony from affected stakeholders, which included representation from homeowners impacted by the crisis, several not for profit housing advocacy and legal services/aid groups, New York State Bankers Association, a New York City Administrative Judge and a representative from Queens Borough President Helen Marshall's office.

3. Department of Financial Services

The Assembly Banks Committee, in partnership with the Assembly's Standing Committees on Insurance and the Committee on Oversight, Analyst and Investigations convened a public hearing on the recent merger of the New York State Banking and Insurance Departments into the Department of Financial Services. This recent merger marked another pivotal stride for the state and its commitment to accountability, transparency and consumer protection. Given the sizeable efforts that have been

undertaken to effectuate this merger, the Assembly Standing Committees provide the Department with an opportunity to present an update on the merger, as well as provide an overview of any remaining steps that will be necessary to complete this transition. This hearing provided an opportunity for the Department to share changes in program and policy concerning the industries it regulates. In addition to the newly appointed DFS Superintendent Lawskey providing testimony, the Committees also heard informative testimony from Empire Justice Center, as well as from the Financial Service Centers of New York.

E. 2011-2012 Banks Budget

The 2011-2012 Executive Budget sought to merge the operations of the Banking and Insurance Departments and the consumer financial protection programs of the Consumer Protection Board (CPB) into a newly established Department of Financial Regulation (DFR). The DFR would enforce the banking and insurance law, as well as a new prohibition against "financial fraud." It would also empower the DFR to issue subpoenas and obtain testimony in advance of and without filing an administrative proceeding or lawsuit and assess administrative penalties of up to \$5,000 per violation and order restitution for consumers. The Executive proposal would also eliminate the 17 member Banking Board as well as increase and expand the scope of certain insurance violation penalties.

In the 2011-2012 Assembly one house budget, the merger of the above named agencies were accepted with modifications. These modifications include transferring all Consumer Protection Board functions and staff to the Department of Financial Regulation (DFR) under a new Consumer Protection Unit; limit applicability of "financial fraud" offense and related processes to entities currently regulated by the Banking and Insurance Departments; remove provisions authorizing the DFR to seek restitution in financial fraud prosecutions; require funds generated by financial fraud fines to go to the General Fund; and remove the Wildcard provision from the bill.

In the 2011-2012 enacted budget the Banking and Insurance Departments were merged into a newly established Department of Financial Services (DFS) which went into effect on October 3, 2011. The Department of Financial Services will enforce the banking, insurance, and financial services law and have the authority to regulate certain existing and newly-created financial products and services. An Insurance Division and a Banking Division was established within the DFS, as well as a Financial Frauds and Consumer Protection Unit, which will be charged with investigating suspected financial fraud and bringing civil enforcement actions against violators. This enacted budget also provided for the transfer of the functions, duties, and staff of the Consumer Protection Board to the Department of State under a new Consumer Protection Unit.

III. Banking Committee 2012 Outlook

The New York State Assembly Standing Committee on Banks will continue to pursue an agenda that responds to the banking industries' and consumers' needs and concerns by protecting consumers' financial interests and security and by supporting legislation that encourages financial institutions to educate and inform their clients on how to make informed financial decisions.

During the 2012 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 focus on, in collaboration with the Housing and Judiciary Committees, foreclosure prevention and assistance as well as addressing foreclosure related issues such as robo-signing.

The Banking Committee will continue to work on strengthening the State Banking Charter in order to have more oversight of the financial institutions in New York State. This oversight will help to further protect consumers.

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

Lastly, the Committee will be working closely with the new Superintendent of the Department of Financial Services in order to assure the success of the newly merged agency, the Department of Financial Services.

**APPENDIX A
SUMMARY OF ACTIONS ON ALL BILLS
REFERRED TO THE COMMITTEE ON BANKS
DURING THE 2011 LEGISLATIVE SESSION**

Final Action	Assembly Bills	Senate Bills	Total Bills
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	1	0	1
To Ways & Means Committee	0	0	0
To Codes Committee	2	0	2
To Rules Committee	5	0	5
To Judiciary	0	0	0
Total	8	0	8
<u>Bills Having Committee Reference Changed</u>			
To _Judiciary_ Committee	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		1	1
Recalled		0	0
Total		1	1
<u>Bills Never Reported, Held in Committee</u>	60	11	71
<u>Bills Never Reported, Died in Committee</u>	0	0	0
<u>Bills Having Enacting Clauses Stricken</u>	4	0	4
<u>Motions to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	73	12	85

Total Number of Committee Meetings Held: 2

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.1913-B (Jeffries)	A.4038-B (Savino)	Chapter 593	Prohibits home improvement contractors from acting on behalf of mortgage brokers
A.3315 (Clark)	S.3652 (Smith)	Passed Assembly	Increases the number of withdrawal transactions from basic banking accounts for account holders over sixty years of age from eight to twelve
A.8102 (Castro)	S.5531 (Griffo)	Chapter 114	Extends the existing authority of licensed lenders to charge annual fees for open end loans until June 30, 2013
A.8103-A (Meng)	S.5478 (Griffo)	Chapter 484	Extends the sunset provision regarding participation in the banking development district program for five years to January 1, 2017
A.8105 (Scarborough)	S.5464 (Griffo)	Chapter 182	Amend various sections of the Banking Law to clarify, among other things, the confidentiality of supervisory information, the treatment of credit extensions and other credit exposure by a bank or trust company to one person or entity, and the references in the Banking Law to credit rating agencies and rated securities
A.8156 (Lancman)	S.4612-A (Griffo)	Chapter 448	Expedite the consideration of wildcard applications of state chartered banking institutions
A.8157 (Abbate)	S.5004 (Griffo)	Chapter 449	Define a "bank holding company" as two or more banking institutions to clarify that home office protection continues to exist for principal offices of certain banking institutions that are subsidiaries of one-bank holding companies, which are subject to home office protection

APPENDIX C
SUMMARY OF LAWS ENACTED DURING THE
2011 LEGISLATIVE SESSION

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.1913-B (Jeffries)	S.4038-B (Savino)	Chapter 593	Prohibits home improvement contractors from acting on behalf of mortgage brokers
A.8102 (Castro)	S.5531 (Griffo)	Chapter 114	Extends the existing authority of licensed lenders to charge annual fees for open end loans until June 30, 2013
A.8103-A (Meng)	S.5478 (Griffo)	Chapter 484	Extends the sunset provision regarding participation in the banking development district program for five years to January 1, 2017
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