



New York State Assembly

Sheldon Silver
Speaker



2013

**ANNUAL
REPORT**

Committee on

Banks

Annette M. Robinson

Chairwoman





ANNETTE M. ROBINSON
Assemblywoman 56th District
Kings County

CHAIR
Banks Committee

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

COMMITTEES
Aging
Children and Families
Housing
Oversight, Analysis and
Investigation
Real Property Taxation
Small Business

December 15, 2013

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

Dear Speaker Silver:

I am pleased to submit the 2013 Annual Report for the Assembly Standing Committee on Banks.

The 2013 Legislative Session was very productive for the Banks Committee. The Committee focused on legislation that sought to maintain and enhance the vitality of our State's financial services industry by striking the proper balance between the following: protecting consumers' financial interests and rights, fostering competition among financial entities and ensuring that the industry operated within a sound statutory and regulatory framework.

The Committee's significant 2013 accomplishments included: clarifying the Superintendents of Department of Financial Services regulatory scope and powers; fostering parity between federal and state-chartered credit unions; increasing the amount of funds that participating community banks can have on deposit to support economic activities within their communities; prohibiting unsolicited loan checks and unnecessary insufficient fund fees; and eliminating physical disclosure requirement of potential fees on automatic teller machines.

The Banks Committee also held three public hearings on critical banking issues. The Committee convened a joint hearing in April with the Consumer Protection Committee to examine whether credit reporting agencies provide an effective process by which consumers can correct inaccuracies in their credit reports. A joint public hearing was held in June with the Small Business Committee, Committee on Economic Development, Job Creation, Commerce and Industry, the Committee on Governmental Operations and the Committee on Oversight, Analysis and Investigation to review how the State can better serve small businesses by coordinating its various services to reduce duplication, eliminate antiquated practices and streamline regulatory requirements. The third hearing took place in December and was a review of the effectiveness of New York State's

Community Reinvestment Act (CRA) in increasing access to quality financial services in underserved communities.

I look forward to working with my legislative colleagues and the banking industry in 2014, particularly in order to increase access to affordable banking and lending in underserved and unbanked areas; financial protection for the elderly; improved financial institution accountability and customer service; expansion of services provided by the Banking Development District Program; and to promote financial literacy and education options available to the public. The committee will continue to examine the full range of issues affecting the banking industry at both the federal and state levels.

It is a pleasure serving as Chairwoman of the Assembly Banks Committee. 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 am looking forward to a productive 2014 Legislative Session.

Sincerely,

A handwritten signature in cursive script that reads "Annette M. Robinson". The signature is written in black ink and is positioned above the printed name.

Annette M. Robinson, Chairwoman
Assembly Banks Committee

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**2013 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
Micah Kellner
Vanessa Gibson
Michael Miller
David Weprin
Robert Rodriguez
Aravella Simotas
Sean Ryan
Michael Kearns
Frank Skartados
Gabriela Rosa
Luis R. Sepulveda
Walter T. Mosley
Mark Gjonaj
Patricia Fahy

Minority

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

Staff

Giovanni Warren, Assistant Secretary for Program and Policy
Teri Kleinmann, Associate Counsel
Yolanda Bostic-Williams, Principal Analyst
Cindy Ceniviva, Program and Counsel Secretary

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 2013 legislative session, 16 bills were considered by the Banks Committee. Of these bills, 16 were reported favorably by our committee, 9 passed the Assembly, 4 were signed into law and 2 were vetoed.

II. Major Issues of 2013

During the 2013 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. Understanding and Providing Clarity with the Community Reinvestment Act Assessments

A.3512 (Robinson)

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.

2. Creation of the Community Banking Program

A.3236 (Magee)/S.2494 (Griffo)

Chapter 495 of the Laws of 2013

The Community Bank Deposit Program seeks to encourage the State Comptroller and the Commissioner of Taxation and Finance to consider placing State funds into local banks. This program recognizes that local banks are well-positioned to use their deposits to support economic activities in their communities. This law will expand the program to ensure additional availability of funds by increasing the amount of funds which an individual participating community bank may have on deposit to \$20 million within the Community Bank Deposit Program.

3. Extension on the Effective Date for Open End Loans

A.4528 (Robinson)/S.3588 (Griffo)

Chapter 32 of the Laws of 2013

In 1996, legislation was enacted to authorize licensed lenders to charge annual fees on open end loans. The law further provided that any such fee may not exceed the lesser of 1% of the loan amount or \$50. This 1996 law contained a sunset date of June 30, 2000. Legislation was enacted in 2000 to extend this authority for another five years, and legislation was enacted in 2005, 2007, 2009 and 2011 to extend this authority for an

additional two years. The provisions of the 1996 law were currently scheduled to expire on June 30, 2013.

The 1996 law recognized that annual fees are a commonly used feature in the pricing of open-end loan products, such as credit cards, home equity loans and personal loans. This type of fee reflects the fact that additional costs are incurred in the administration of revolving loans, such as the preparation and mailing of monthly billing statements, the processing of transactions and increased monitoring costs.

For these reasons, banking institutions have long had the ability to charge annual fees in open-end loan products. Licensed lenders have also had the ability to charge annual fees on certain open-end products, such as credit cards and home equity loans. However, prior to 1996, they did not have authority to charge annual fees on open-end personal loans. Chapter 223 of 1996 gave licensed lenders the same pricing flexibility as banking institutions in regard to charging annual fees on open-end personal loans. Licensed lenders should continue to have this flexibility in pricing their loan products. Therefore, this law would extend the provisions of the 1996 law for another two years.

4. Extending Provisions for Check Cashers
A.5057 (Mosley)/S.4278 (Griffo)
Chapter 33 of the Laws of 2013

This law provides greater certainty and stability to the check cashing industry by extending the sunset provisions on Chapter 591 of the Laws of 2001 until August 1, 2018. Chapter 591 of 2001 provided that any separate check cashing facilities established by banking institutions be subject to the existing distance standard which applies to the licensing of check casher operations.

5. Reviewing of Banking & Financial Services within Low Income Communities
A. 5175B (Crespo)/S.5505 (Parker)

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 was reported to the Ways and Means Committee.

6. Conforming State Law on Automatic Teller Machine (ATM) Fees
A.6234 (Robinson)/S.4363 (Griffo)
Chapter 199 of the Laws of 2013

This law brings state law into conformity with current provisions of federal law relating to automatic teller machines (ATMs) by eliminating the outdated requirement that ATM machines carry a physical disclosure of potential ATM fees. Prior to enactment of this law, notification of potential fees had been required to be displayed on the screen of the ATM or on a paper notice issued from the machine after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

7. Creation of the Credit Union Deposit Program
A.7198 (Rodriguez)/S.5016 (Maziarz)

This bill would authorize the State Comptroller and the Commissioner of Taxation and Finance to deposit State funds into local credit unions in order to help stimulate New York economic development.

This bill was reported to the Ways and Means Committee.

B. Regulatory Issues

1. Notification of Overdraft Procedures
A.785 (Weprin)

This bill would require financial institutions that offer overdraft protection to notify its customers or depositors immediately of the insufficiency of funds in such accounts, via electronic mail, or through any other method of notification that the individual prefers.

This bill was reported to the Assembly Codes Committee.

2. Expanding Credit Union Memberships
A.3510 (Robinson)/S.2089 (Griffo)
Veto Memo 275 of the Laws of 2013

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 give credit unions' boards of directors more latitude in determining criteria for membership in a particular credit union; expand investment powers of credit unions; and provide authority to exercise incidental powers similar to that which is authorized under federal regulations.

Governor Cuomo's veto message stated the bill would undermine and substantially reduce the State's oversight authority.

3. Clarifying Various Sections of Banking Law and General Business Law
A.7213A (Robinson)/S.4366A (Griffo)
Chapter 227 of the Laws of 2013

This law makes necessary corrections and clarifications to various provisions of New York State Law and the General Business Law by updating the statutory framework for the regulation of banking and related entities subject to the jurisdiction of the Department of Financial Services. Most of the amendments removed outdated references because of the merger of the Banking and Insurance Departments and made other technical changes in the Banking Law to reflect the current environment within which financial services now operate.

C. Consumer Products, Protection, and Convenience

1. Protecting Consumers from Fraudulent Wire Transfers A.156A (Nolan)/ S.606A (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. By educating and informing those individuals wiring money regarding the various frauds and schemes that presently are occurring (lottery winnings, credit card guarantees...etc.) we will hopefully prevent another New York consumer from being a victim of fraud.

This bill advanced to third reading on the Assembly Calendar.

2. Protecting Consumers from Onerous Inactivity Fees A.2548 (Gabryszak)

This bill would prohibit financial institutions from charging a fee in excess of five dollars per year to a customer based on account inactivity.

This bill was reported to the Assembly Codes Committee.

3. Protecting Consumers from Unsolicited Loan Checks A.2792 (Pretlow)/S.703 (Sampson)

This bill would prohibit lending institutions from issuing mail loan checks or drafts (unsolicited checks) to any individual without request or application from the consumer. In addition, the bill would require the transaction fee and interest rate, as well as any additional information that the Superintendent of Financial Services may require, to be printed on the mail loan check.

This bill passed the Assembly.

4. Increasing Minimum Withdrawals for Account Holders 65 years of Age of Older A.3073 (Clark)

New York State law requires that all banks (including commercial banks, savings banks and credit unions) must offer consumers a low-fee bank account that meets specific basic criteria. Banks are permitted to impose certain conditions on opening and maintaining a basic banking account. No matter what name the bank gives to the type of account, anyone in New York State can have a basic banking account as long as certain conditions are met.

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

This bill passed the Assembly.

**5. Protecting Account Holders from Unnecessary Insufficient Fund Fees
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 and 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.

**6. Encouraging Savings Accounts
A.7341 (Robinson)/S.5145 (Lanza)
Veto Memo 229 of the Laws of 2013**

This bill would have authorized 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.

Governor Cuomo’s veto message stated the bill would violate the State Constitution and federal law and is ambiguous.

D. Hearings

During the 2013 legislative session, the Assembly Standing Committee on Banks held three public hearings on important banking-related issues.

1. Consumer Protection

On April 19, in New York City, the Committee held a joint public hearing with the Committee on Consumer Protection to examine whether credit reporting agencies provide an effective process by which consumers can correct inaccuracies in credit reports, how inaccuracies affect consumers' credit scores, employability, and interest rates, and actions the State can take to improve the accuracy of credit reports. A recent Federal Trade Commission study on credit report accuracy indicated that as many as one in four consumers may have a "material error" in their reports. A consumer's credit report is used in many different and far-reaching ways, including decisions on loan applications, interest rates, and employment.

Numerous consumer advocates and the Consumer Data Industry Association provided testimony to the Committees. While there was no consensus as to what remedies may be available to consumers at the state level, the witnesses admitted that millions of consumers have errors in their credit reports. In addition, the consumer advocates testified that these errors are difficult to correct and have far-reaching consequences, particularly when a consumer is searching for employment.

2. Small Business

On June 26, in New York City, the Banks Committee, in conjunction with the Assembly Small Business Committee, the Committee on Economic Development, Job Creation, Commerce and Industry, the Committee on Governmental Operations, and the Committee on Oversight, Analysis and Investigation held a public hearing to review how the State can better serve small businesses by coordinating its various services to reduce duplication, eliminate antiquated practices, and streamline regulatory requirements. Additionally, the committees reviewed municipal practices regarding fines and fees that are assessed on small businesses to determine their efficiency and necessity and to seek alternative methods of government interaction that lead to further economic growth for small businesses. Testimony was provided and heard from small businesses, government agencies, the banking and financial services communities, and non-profit organizations from around the State.

3. Community Reinvestment Act

On December 5, in Albany, the Banks Committee, in conjunction with the Assembly Subcommittee on Banking in Underserved Communities, held a public hearing to examine the effectiveness of New York State's Community Reinvestment Act in increasing access to quality financial services in underserved communities.

The federal Community Reinvestment Act, which Congress passed in 1977, encouraged financial institutions to help meet their communities' needs through safe and sound lending practices and by providing retail banking and community development services. New York

State's CRA was adopted in 1978 after concerns were raised about allegations of redlining in poor and minority communities by banking institutions during the 1960s and 1970s

The committees reviewed the state CRA's rating standards and practices in order to evaluate whether banks have effectively ascertained and met the credit needs of local communities. It also focused on what steps could be taken to increase access to quality banking services, which are critical to the success of communities as they and their residents struggle to adapt to an ever-changing banking system and difficult economic times.

Testimony was provided and heard from government officials, consumer advocates and representatives from the financial industry from around the State.

III. Banking Committee 2014 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 2014 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 Banking 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 2013 LEGISLATIVE SESSION**

Final Action	Assembly Bills	Senate Bills	Total Bills
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	3	4	7
To Floor; Recommitted and Died	0	0	0
To Ways & Means Committee	5	0	5
To Codes Committee	6	2	8
To Rules Committee	2	0	2
To Judiciary	0	0	0
Total	16	6	22
<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 Never Reported, Held in Committee</u>			
	57		57
<u>Bills Never Reported, Died in Committee</u>			
<u>Bills Having Enacting Clauses Stricken</u>	2		2
<u>Motions to Discharge Lost</u>	0		0
TOTAL BILLS IN COMMITTEE	75	8	83

Total Number of Committee Meetings Held: 5

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.785 (Weprin)	No Same As	Reported to Codes Committee	Would require banks and credit unions that offer overdraft protection to notify its customers or depositors immediately of the insufficiency of funds in such accounts via electronic mail or through any other method of notification that the individual prefers.
A.2548 (Gabryszak)	No Same As	Reported to Codes Committee	Prohibits financial institutions from charging a fee in excess of five dollars per year to a customer based on account inactivity.
A.2792 (Pretlow)	S.703 (Sampson)	Passed Assembly	Would prohibit lending institutions from issuing mail loan checks without request or application from the consumer. In addition, would require the transaction fee and interest rate, as well as any additional information that the Superintendent of the Department of Financial Services may require, to be printed on the mail loan check; and state that the failure to destroy or return a mail loan check does not constitute the acceptance of the check.
A.3073 (Clark)	No same As	Passed Assembly	Would increase the basic banking transactions from 8 to 12 for individuals over the age of 65.

A.3236 (Magee)	A.2494 (Griffo)	Chapter 495	Increases the amount of funds which an individual participating community bank may have on deposit to \$20 million within the Community Bank Deposit Program.
A.3510 (Robinson)	S.2089 (Griffo)	Veto Memo 275	Makes various amendments to the Banking Law governing credit unions intended to provide parity with federal law and regulations. Specifically, this bill would: give credit unions' boards of directors more latitude in determining criteria for membership in a particular credit union; expand investment powers of credit unions; provide authority to exercise incidental powers similar to that which is authorized under federal regulations.
A.3511 (Robinson)	S.1156 (Breslin)	Advanced to 3 rd 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.3512 (Robinson)	No Same As	Advanced to 3 rd Reading	Would require the Superintendent of Department of Financial Services to write an assessment that explains a financial institution's performance record on meeting the credit needs and availability of banking services for low-to moderate- income consumers.
A.4528 (Robinson)	S.3588 (Griffo)	Chapter 32	Provides the authority of licensed lenders to charge annual fees for open end loans for an additional two years.
A.5057 (Mosley)	S.4278 (Griffo)	Chapter 33	Extends the sunset date to August 1, 2018 on the distance requirement statute for financial institutions' check cashing facilities.

A.5175-B (Crespo)	S.5505 (Parker)	Reported to Ways and Means	Requires a study and report on various banking products and services offered in low-income communities by state-chartered financial institutions.
A.6234 (Robinson)	S.4363 (Griffo)	Chapter 199	Eliminates the physical disclosure requirement of potential fees on automatic teller machines (ATMs).
A.7198 (Rodriguez)	S.5016 (Maziarz)	Reported to Ways and Means	Would establish the Credit Union Deposit Program to permit deposits of state monies into state-chartered and federally chartered credit unions.
A.7213-A (Robinson)	S.4366-A (Griffo)	Chapter 227	Amends the Banking Law and General Business Law to enhance regulatory efficiency.
A.7341 (Robinson)	S.5145 (Lanza)	Veto Memo 229	Would have authorized New York State financial institutions to utilize promotional offers to incentivize banking customers to save money.

APPENDIX C
SUMMARY OF LAWS ENACTED DURING THE
2013 LEGISLATIVE SESSION

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.3236 (Magee)	S.2494 (Griffo)	Chapter 495	Increases the amount of funds which an individual participating community bank may have on deposit to \$20 million within the Community Bank Deposit Program.
A.4528 (Robinson)	S.3588 (Griffo)	Chapter 32	Provides the authority of licensed lenders to charge annual fees for open-end loans for an additional two years.
A.5057 (Mosley)	S. 4278 (Griffo)	Chapter 33	Extends the sunset date to August 1, 2018 on the distance requirement statute for financial institutions' check cashing facilities.
A.6234 (Robinson)	S.4363 (Griffo)	Chapter 199	Eliminates the physical disclosure requirement of potential fees on automatic teller machines (ATMs).
A.7213-A (Robinson)	S.4366-A (Griffo)	Chapter 227	Amends the Banking Law and General Business Law to enhance regulatory efficiency and efficacy.

APPENDIX D
SUMMARY OF LAWS VETOED DURING THE
2013 LEGISLATIVE SESSION

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.3510 (Robinson)	S.2089 (Grifo)	Veto 275	Would have made various amendments to the Banking Law governing credit unions intended to provide parity with federal law and regulations.
A.7341 (Robinson)	S.5145 (Lanza)	Veto 229	Would have authorized New York State financial institutions to utilize promotional offers to incentivize banking customers to save money.