2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

Committee on Banks



Sheldon Silver, Speaker

Darryl C. Towns, Chairman

December 15, 2008

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

Dear Speaker Silver:

I am pleased to submit the 2008 Annual Report of the Assembly Standing Committee on Banks. The 2008 legislative session has been a unique and historic time for the Banking Committee. While dealing with national economic and housing crises, the Committee has been focused on maintaining and enhancing the vitality of New York State's financial services industry by protecting consumers' financial interests and rights, fostering competition, and ensuring sound operations within the industry.

Significant legislation reported by the members on the Standing Committee on Banks include Chapter 472, based on the Assembly's Responsible Lending Act, enacted to assist New York homeowners facing foreclosure. Other significant pieces of legislation advanced by the Committee include exempting federally chartered credit unions from the special additional mortgage recording tax to encourage conversion to the New York State banking charter; strengthening banking regulations for out-of-state financial institutions establishing branches in New York State; and, authorizing de novo branching and trust companies to operate under the New York State charter.

It is a pleasure serving as Chairman of the Assembly Banks Committee. I greatly appreciate your continued support, 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 2009 Legislative Session.

Sincerely,

Darryl C. Towns, Chairman Assembly Banks Committee

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2008 ANNUAL REPORT NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON BANKS

Darryl C. Towns Chairman

BANKS COMMITTEE MEMBERS

Majority

Ivan C. Lafayette Anthony S. Seminerio Richard L. Brodsky Harvey Weisenberg N. Nick Perry William Magee Peter J. Abbate, Jr. William Scarborough Felix W. Ortiz

Ann-Margaret Carrozza

Luis M. Diaz José R. Peralta Jonathan L. Bing

William F. Boyland, Jr. Michael A. Benjamin

Karim Camara Alan Maisel

Dennis H. Gabryszak

Tim Gordon

Rory I. Lancman

Hakeem Jeffries

Matthew Titone

Micah Kellner

Minority

Andrew P. Raia, Ranking Minority Member Dierdre K. Scozzafava Joseph A. Errigo David G. McDonough Bill Reilich Thomas F. O'Mara Jack Ouinn Philip Boyle

STAFF

Ernest Amabile, Legislative Coordinator Teri Kleinmann, Associate Counsel Yolanda Bostic, Committee Analyst Alessandra J. Payne, Committee Assistant Cindy Ceniviva, Program and Counsel Secretary

Table of Contents

			PAGE(S)
I.	Int	roduction	1
II.	Ma	jor Issues of 2008	2-9
	A.	Industry Issues	2-4
		1. Distance Requirement Statute Extension	2
		2. Increasing the State Chartered Institution Population	2
		3. Increasing the Department's Regulatory Authority in the Financial Services	
		Industry	2
		4. New York State Trust Companies	2
		5. Increasing Consistency in Banking Law	2
		6. Establishing New York State De Novo Branches	3
		7. Wild Card Amendments	3
		8. Tri-State Banking Compact	3
		9. Dividend/Interest Availability on Accounts	3
		10. Depositing State Funds in State and Local Financial Institutions	3
		11. Amending Banking Development District Law	4
		12. Increasing Accessibility of Banking Services	4
		13. Understanding Community Reinvestment Act Assessments	4
		14. Increasing Capital for Entrepreneurs	4
		15. Stimulating the Local Economies with State Funds	4
	В.	Regulatory Issues	5-6
		1. Due on Sale Clause Provisions	5
		2. Combating Illegal Banking Activities	5
		3. Strengthening Foreclosure and Real Property Actions and Proceeding Laws	5
		4. Restrictions on Financial Institutions' Activities with Trust Companies	5
		5. Regulating Actions Between Home Improvement Contractors and Mortgage	
		Brokers	6
		6. Restricting Access to Payday Loans	6
		7. Regulating Lender and Broker Activities	6
		8. Eradicating Illegal Financial Activities	6
	С.	Consumer Products, Protection and Convenience	7-9
		1. Eliminating Unjust Banking Fees	7
		2. Mortgage Payment Regulation as Preventive Measure for Insurance	_
		Cancellations	7
		3. ATM Equal Accessibility for All	7
		4. Increasing Disclosure of Banking Activities to Accountholders	7
		5. Protecting Banking Consumers from Harsh Account Penalties	7
		6. Guaranteeing Community Reinvestment Act Compliance	8
		7. Preventing Penalizing Accountholders for Financial Institution Errors	8
		8. Disclosing Lending and Mortgage Information	8
		9. Restricting Credit Card Access to Financially Inexperienced Consumers 10. Protecting Spring Citizana from Aggregative Financial Companies	8
		10. Protecting Senior Citizens from Aggressive Financial Companies	8
		11. Notice Requirement to Set Off Accounts 12. Medawiging the Definition of Demostic Portrop	9
		12. Modernizing the Definition of Domestic Partner	9

Table of Contents (cont'd)

		PAGE(S)
	13. Protecting Foreclosure Victims' Rights	9
	14. Protecting Mortgage Applicants' Rights	9
III. 200	9 Outlook	10
APPEND APPEND	ICES IX A: SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE	11-15
	COMMITTEE ON BANKS DURING THE 2008 LEGISLATIVE SESSION	11
	IX B: SUMMARY OF FINAL ACTION ON BILLS REPORTED BY THE BANKS COMMITTEE IX C: SUMMARY OF LAWS ENACTED DURING THE 2008 LEGISLATIVE	12-14
AFFEND	SESSION	15

I. Introduction

The New York State Assembly Standing Committee on Banks was established in order to review and initiate legislation that affect 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, employee welfare funds, sales finance companies, licensed lenders, licensed cashers of checks, mortgage brokers, mortgage bankers, insurance premium finance agencies, and foreign and private banks.

Legislation referred to the Banks Committee is created primarily from legislators who are interested in the issues addressed in the banking industry and in the New York State Banking Department. Other sources of legislation are derived from trade associations, financial organizations, and private and community action groups who have banking interests and concerns. These bills address a broad range of banking concerns which include maintaining the competitive balance among financial institutions, protecting customers' interests, providing housing finance, and modifying banking regulations and administration.

During the 2008 legislative session, 106 bills were considered by the Banks Committee. Of these bills, 31 were reported favorably by our committee, 28 passed the Assembly, and 12 were signed into law.

II. Major Issues of 2008

During the 2008 Legislative Sessions, 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 customer protection, enhancing the safety and soundness of the banking industry, and ensuring access to financial services.

A. Industry Issues

1. Distance Requirement Statute Extension A.9551-A (Towns)/S.6622A (Farley) Chapter 12 (2008)

This law extends the sunset date to August 1, 2010, on the distance requirement statute for financial institutions' check cashing facilities.

2. Increasing the State Chartered Institution Population A.10979 (Greene)/S.8122 (Farley) Chapter 522 (2008)

This law encourages federal credit unions to convert to a state charter by allowing federal credit unions to maintain their special additional mortgage recording tax and extending the privilege to state chartered financial institutions.

3. Increasing the Department's Regulatory Authority in the Financial Services Industry A.11027-A (Towns)/ S.7360-A (Farley) Chapter 457

This law increases the Banking Department's regulatory authority by expanding the subsidiary trust company law definitions of "affiliated banks" or "affiliated trust companies" to include savings banks, savings and loan associations, federal savings banks, and out-of-state banks; and, by authorizing financial institutions to comply with initial entry requirements for out-of-state banks in order to establish branches within New York State chartered financial institutions that have recently merged with or have been acquired by that institution.

4. New York State Trust Companies A.11028 (Boyland)/S.7358-A (Farley) Chapter 209 (2008)

This law allows state and out-of-state banks to establish trust offices in New York State by submitting written notice and application fee to the Banks Superintendent.

5. Increasing Consistency in Banking Law A.11029-A (Boyland)/S.7358-A (Farley) Chapter 315 (2008)

This bill eliminates outdated provisions and clarifies sections in Banking Law by making a series of technical corrections.

6. Establishing New York State De Novo Branches

A.11031 (Towns)/S.7434 (Farley)

Chapter 316 (2008)

This law authorizes out-of-state banks to open a de novo branch in New York State after submitting an application and receiving the Banking Superintendent's approval.

7. Wild Card Amendments

A.11236 (Jeffries)/S.7761 (Farley) Chapter 295 (2008)

This law makes technical amendments to the 2007 Wild Card law.

8. Tri-State Banking Compact

K.1859 (Towns)

Adopted (2008)

This resolution commends the New York State Banking Department, the New Jersey Department of Banking and Insurance, and the Pennsylvania Department of Banking for signing the Tri-State Banking Compact.

9. Dividend/Interest Availability on Accounts

A.51 (Lafayette)/ S.1733 (Sabini)

This bill would prohibit banks and trust companies that credit interest on day of deposit to day of withdrawal accounts from withholding any interest or dividends if the account is closed prior to the end of the calendar quarter or regular interest or dividend period, and would require banks and trust companies to allow interest/dividends to accrue on a daily basis and to pay all interest or dividends on day of deposit to day of withdrawal accounts at the time the account is closed.

This bill passed the Assembly.

10. Depositing State Funds in State and Local Financial Institutions

A.54 (Lafayette)/S.1733 (Sabini)

This bill would assist accountholders in making informed financial decisions by requiring certificate of deposit maturity notices to include the amount in the account at maturity, the earned interest rate on the account, and the names of all account holders and beneficiaries.

11. Amending Banking Development District Law

A.56-A (Lafayette)/S.2867-A (Farley)

This bill would increase the availability of banking services by allowing state and federal credit unions to be included in the definition of bank or trust company and, therefore, to participate in the Banking Development District Program.

This bill passed the Assembly.

12. Increasing Accessibility of Banking Services A.1680 (Peralta)

This bill would increase banking services in underdeveloped areas by permitting banks, trust companies and national banks to open multiple branches within banking development districts.

This bill was passed by the Assembly.

13. Understanding Community Reinvestment Act Assessments A.1801 (Greene)

This bill would make Community Reinvestment Act assessments more informative in order to better understand the availability of banking services for low to moderate income consumers.

This bill passed the Assembly.

14. Increasing Capital for Entrepreneurs A.3205 (Sweeney)/S.4629 (Saland)

This bill would ensure small businesses have access to capital by allowing the state and federal credit unions to participate in the Excelsior Linked Deposit Program and to accept linked deposit money from the State Commissioner of Taxation and Finance and the Comptroller to loan to small businesses.

This bill passed the Assembly.

15. Stimulating the Local Economies with State Funds A.10450-A (Towns)/S.7768 (Farley)

This bill would stimulate local economies by allowing state and local funds to be deposited into state savings banks, credit unions, and savings and loan associations.

B. Regulatory Issues

1. Due on Sale Clause Provisions A.251 (Magnarelli)/S.5621 (Farley) Chapter 152 (2008)

This legislation requires New York State-chartered financial institutions to comply with the laws that govern federally-chartered institutions by restricting state-chartered institutions from using "due on sale" clauses in the following transfer situations: transfers by devise, descent, or operation of law on the death of; grants of leasehold interest of three years or less not containing an option to purchase; transfer to relatives when the borrower expires; transfer of ownership to the borrower's spouse or child; transfer to the borrower's spouse resulting from a divorce, separation agreement, or when the spouse assumes ownership; and, transfer into an inter-vivos trust where the borrower is the beneficiary and unrelated to an occupancy rights transfer.

2. Combating Illegal Banking Activities A.10066 (Towns)/S.5344 (Farley) Chapter 235 (2008)

This law convicts any unlicensed person, partnership, directors, agents, and employees who cash checks, drafts, or money orders as a class A misdemeanor.

3. Strengthening Foreclosure and Real Property Actions and Proceeding Laws A.10817 (Towns)/S.8143-A (Farley) Chapter 472

This law is perhaps the most significant piece of legislation reported by the Banks Committee this session. This law is far reaching and amends various sections of law. The law is designed to assist homeowners whose property is currently in foreclosure to be able to keep their home; amends Banking Law, among other things; establishes a reasonable ability to repay requirement for originating subprime home loans; creates new crimes involving residential mortgage fraud; and, establishes regulations for registering mortgage loan originators and for regulating the activities of distressed properties consultants.

4. Restrictions on Financial Institutions' Activities with Trust Companies A.11029-A (Boyland)/S.7258-A (Farley) Chapter 315 (2008)

This law makes a series of technical corrections to the Banking Law.

5. Regulating Actions Between Home Improvement Contractors and Mortgage Brokers A.52 (Lafayette)

This bill would prohibit home improvement contractors from representing mortgage brokers in any transaction while soliciting home improvement contracts and would prohibit mortgage brokers from paying home improvement contractors directly except when the home improvement contractor inspected the broker's completed work.

This bill passed the Assembly in 2008.

6. Restricting Access to Payday Loans A.722 (Wright)

The bill would prohibit out of state banking institutions from issuing payday loans to New York State residents.

This bill was reported to Assembly Codes Committee.

7. Regulating Lender and Broker Activities A.8972-C (Towns)

This bill would enact the "New York State Responsible Lending Act of 2008." Many of the provisions of this bill were incorporated into A.10817 (Towns) and into Chapter 235 of the 2008 Laws of New York, which is described above in paragraph 3 of this section.

This bill passed the Assembly.

8. Eradicating Illegal Financial Activities A.10067 (Towns)/S.2864 (Farley)

This bill would strengthen penalties for people who engage in illegal banking activities by authorizing the Banking Department to prosecute individuals who do not have a license but engage in banking activities.

C. Consumer Products, Protection and Convenience

1. Eliminating Unjust Banking Fees A.319-A (Pheffer)/S.632-A (Marcellino) Chapter 597 (2008)

This law prohibits automated teller machine operators from applying fees to consumers' denied transactions.

2. Mortgage Payment Regulation as Preventive Measure for Insurance Cancellations A.55 (Lafayette)

This bill would prevent the issuance of insurance cancellation notices by requiring mortgage investing institutions to pay real property insurance premiums ten days before the due date.

This bill passed the Assembly.

3. ATM Equal Accessibility for All A.73-A (Weisenberg)

This bill would require automated teller machine operators to accommodate visually and hearing impaired people by installing technology that would transmit visual and audio messages.

This bill passed the Assembly.

4. Increasing Disclosure of Banking Activities to Accountholders A.1433-A (Bradley)

This bill would require financial institutions to notify a customer before applying account inactivity fees.

This bill passed the Assembly.

5. Protecting Banking Consumers from Harsh Account Penalties A.1538-A (Bradley)

This bill would prohibit financial institutions from charging account inactivity fees higher than five dollars.

6. Guaranteeing Community Reinvestment Act Compliance A.1800 (Greene)

This bill would ensure that state chartered financial institutions comply with the Community Reinvestment Act by creating strategic plans that loan and invest in local communities.

This bill advanced to the third reading on the Assembly calendar.

7. Preventing Penalizing Accountholders for Financial Institution Errors A.2240 (Greene)

This bill would require banking institutions to refund money and interest when correcting institutional errors.

This bill advanced to the third reading on the Assembly calendar.

8. Disclosing Lending and Mortgage Information A.2617 (McDonough)

This bill would require lending companies to include in their mortgages and loan billing statements the remaining principal and interest balances owed.

This bill was referred to the Assembly Codes Committee.

9. Restricting Credit Card Access to Financially Inexperienced Consumers A.3034 (Diaz, L.)/S.3783 (Parker)

This bill would restrict credit card solicitation areas on college campuses to only state and city college campuses that offer credit education courses and would prohibit state and city universities from entering into agreements with credit card issuers to allow access to campus property for soliciting students to own credit cards.

This bill was referred to the Assembly Codes Committee.

10. Protecting Senior Citizens from Aggressive Financial Companies A.3765-A (Englebright)

This bill would protect senior citizens from becoming victims of financial exploitation by requiring state financial advisors and attorneys to report incidents of financial exploitation to the Adult Protective Services unit of the local Department of Social Services and by creating educational, outreach, and training programs.

This bill was referred to the Assembly Codes Committee.

11. Notice Requirement to Set Off Accounts A.4648 (Schroeder)

This bill would require banking institutions to provide 30 days notice to account holders with negative balances before setting off the account.

This bill passed the Assembly.

12. Modernizing the Definition of Domestic Partner A.6807-A (Glick)

This bill would increase the financial security of persons in nontraditional families and/or relationships by defining domestic partner as a former party in a domestic partnership or similar relationship; a person who was formally recognized as a beneficiary of or who was covered under the other person's employment benefits or health insurance; or a person who is dependent or mutually interdependent on the other person for support (i.e. joint leasing of real or personal property, shared income/expenses, children in common, and/or signs of intent to marry or the length of their personal relationship).

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

13. Protecting Foreclosure Victims' Rights A.8968-A (Lancman)/S.7996 (Defrancisco)

This bill would allow homeowners who prevail in foreclosure proceedings the right to seek reimbursement from their lending company and would authorize lenders to recoup fees and/or expenses for any homeowner breach in lease, covenant, or agreement.

This bill was referred to the Assembly Rules Committee in 2008.

14. Protecting Mortgage Applicants' Rights A.10219-A (Peralta)/S.8226 (Maltese)

This bill would ensure that prospective mortgage applicants are aware of their rights when purchasing a residential property by requiring the Banking Superintendent to create and distribute an informational pamphlet called the "The Mortgage Applicant's Bill of Rights."

This bill passed the Assembly in 2008.

III. Banking Committee 2009 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 to inform their clients on how to make informed financial decisions.

During the 2009 legislative session, the Assembly Banks Committee will continue in its efforts in creating legislation that assists foreclosure assistance and prevention, that increases financial literacy, improves the quality of services in the lending and mortgage industries, and that protects financial businesses and consumers from becoming victims of fraud and theft. The Banking Committee will continue to strengthen the State Banking Charter and work with financial institutions to assist them in being more competitive; support programs that would ensure that banking services are available to consumers in underdeveloped communities; and, support entrepreneurial ventures.

APPENDIX A SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE COMMITTEE ON BANKS DURING THE 2008 LEGISLATIVE SESSION

Final Action	Assembly Bills	Senate Bills	Total Bills	
Bills Reported With or Without Amendment				
To Floor; Not Returning to Committee	8	0	8	
To Floor; Recommitted and Died	0	0	0	
To Ways and Means Committee	6	0	6	
To Codes Committee	12	0	12	
To Rules Committee	5	0	5	
To Judiciary	0	0	0	
Total	31	0	31	
Bills Having Committee Reference Changed	0	0	0	
Senate Bills Substituted or Recalled				
Substituted		6	6	
Recalled		0	0	
Total		6	6	
Bills Defeated in Committee	0	0	0	
Bills Never Reported, Held in Committee	5	0	5	
Bills Never Reported. Died in Committee	75	3	78	
Bills Having Enacting Clauses Stricken	0	0	0	
Motions to Discharge Lost	0	0	0	
	<u>, </u>		_	
TOTAL BILLS IN COMMITTEE	111	9	120	

Total Number of Committee Meetings Held: 8

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

Assembly Bill # Sponsor	Senate Bill # Sponsor	Final Action	Description
A.51 (Lafayette)	S.1733 (Sabini)	Passed Assembly	Requires banks, trust companies and thrift institutions to make available at the time of withdrawal the interest/dividends accrued on day-of-deposit to day-of-withdrawal accounts
A.52 (Lafayette)		Passed Assembly	Regulates actions between home improvement contractors and mortgage brokers
A.54 (Lafayette)	S.1733 (Sabini)	Passed Assembly	Allows state funds to be deposited into state- chartered credit unions and community banking institutions
A.55 (Lafayette)		Passed Assembly	Ensures timely payments by mortgage investing institutions, in order to prevent the issuance of insurance cancellation notices
A.56-A (Lafayette)	S.2867-A (Farley)	Passed Assembly	Includes credit unions and federal credit unions within the definition of bank or trust company for the purpose of provisions regarding banking development districts
A.73-A (Weisenberg)		Passed Assembly	Requires ATM's to provide equal access for all individuals
A.251 (Magnarelli)	S.5621 (Farley)	Chapter 152	Subjects New York State chartered institutions to the same standard as federally chartered institutions with respect to certain "due on sale" clause transfers
A.319-A (Pheffer)	S.632-A (Marcellino)	Chapter 597	Prohibits ATM operators from imposing fees on consumers when their transaction is denied
A.722 (Wright)		Referred to Assembly Codes Committee	Prohibits foreign banking institutions from issuing payday loans
A.1433-A (Bradley)		Passed Assembly	Requires financial institutions to notify a customer before applying account inactivity fees
A.1538-A (Bradley)		Advanced to Third Reading	Prohibits financial institutions from charging account inactivity fees higher than five dollars

Assembly Bill # Sponsor	Senate Bill # Sponsor	Final Action	Description
A.1680 (Peralta)		Passed Assembly	Expands banking services to underdeveloped areas by permitting banks, trust companies, and national banks to open multiple branches within banking development districts
A.1800 (Greene)		Advanced to Third Reading in Assembly	Ensures that loan and investment commitments to communities are fulfilled
A.1801 (Greene)		Passed Assembly	Makes Community Reinvestment Act assessments more informative in order to better understand the availability of banking services for low to moderate income consumers
A.2240 (Greene)		Advanced to Third Reading	Requires banking institutions to refund money and interest when correcting bank institution errors
A.2617 (McDonough)		Referred to Assembly Codes Committee	Requires mortgages and loan billing statements to include the remaining principal and interest balances owed
A.3205 (Sweeney)	S.4629 (Saland)	Passed Assembly	Ensures that capital is available for small businesses
A.3034 (Diaz, L.)	S.3783 (Parker)	Referred to Codes Committee	Limits credit card companies' access to financially inexperienced college students
A.3765-A (Englebright)		Referred to Codes Committee	Protects the elderly from becoming victims of financial exploitation
A.4648 (Schroeder)		Passed Assembly	Creates a banking policy that would require banking institutions to provide notice to accountholders with negative balances before setting off the account
A.6807-A (Glick)		Advanced to Third Reading	Increases the financial security of persons in nontraditional families and/or relationships
A.7611 (Tobacco)		Referred to Assembly Codes Committee	Prevents persons who are deemed incompetent from being solicited by lenders
A.8968-A (Lancman)	S.7996 (Defrancisco)	Referred to Assembly Rules Committee	Allows homeowners, who prevail in foreclosure proceedings, the right to seek reimbursement from their lending company
A.8972-C (Towns)		Passed Assembly	Enacts the "New York State Responsible Lending Act of 2008"
A.9551-A (Towns)	S.6622A (Farley)	Chapter 12	Extends the sunset date to August 1, 2010 on the distance requirement statute for financial institution's check cashing facilities

Assembly Bill # Sponsor	Senate Bill # Sponsor	Final Action	Description
A.10066 (Towns)	S.5344 (Farley)	Chapter 235	Strengthens penalties for cashing checks and money orders without a license
A.10067 (Towns)	S.2864 (Farley)	Passed Assembly	Strengthens penalties for people who engage in illegal banking activities
A.10219-A (Peralta)	S.8226 (Maltese)	Passed Assembly	Ensures prospective mortgage applicants are aware of their rights when purchasing a residential property
A.10450-A (Towns)	S.7768 (Farley)	Passed Assembly	Allows state and local funds to be deposited into state chartered savings banks, credit unions, and savings and loan associations in order to stimulate the local economy
A.10817 (Towns)	S.8143-A (Farley)	Passed Assembly	Regulates Mortgage Loan Originators and Distressed Property Consultants, establishes reasonable ability to repay requirement for originating mortgage loans, and defines residential mortgage fraud
A.10979 (Greene)	S.8122 (Farley)	Chapter 522	Encourages federal credit unions to convert to the New York State Charter
A.11027-A (Towns)	S.7360-A (Farley)	Chapter 547	Allows federal credit unions to maintain their special additional mortgage tax exemption when converting to a state charter on or after January 1, 2009
A.11028 (Towns)	S.7365 (Farley)	Chapter 209	Allows state and out-of-state banks to establish New York State trust offices after submitting written notice and application fee to the Banking Superintendent
A.11029-A (Boyland)	S.7358-A (Farley)	Chapter 315	Updates outdated provisions and clarifies Banking Law sections by making a series of technical corrections
A.11031 (Towns)	S.7434 (Farley)	Chapter 316	Authorizes out-of-state banks to open de novo branches in New York State by submitting an application and receiving approval from the Banking Superintendent
A.11236 (Jeffries)	S.7761 (Farley)	Chapter 295	Amends the Banking Law and the Insurance Law to reflect current federal law
K.1859 (Towns)		Adopted	Commends the New York State Banking Department, the New Jersey Department of Banking and Insurance, and the Pennsylvania Department of Banking for signing the Tri-State Banking Compact

APPENDIX C SUMMARY OF LAWS ENACTED DURING THE 2008 LEGISLATIVE SESSION

Assembly Bill # Sponsor	Senate Bill # Sponsor	Final Action	Description
A.251 Magnarelli	S.5621 Farley	Chapter 152	Subjects New York State chartered institutions to the same standard as federally chartered institutions in certain "due on sale" clause transfers
A.319-A Pheffer	S.632-A Marcellino	Chapter 597	Prohibits ATM operators from imposing fees on consumers when their transaction is denied
A.9551-A Towns	S.6622-A Farley	Chapter 12	Extends the provision that provides for increased competition in the check cashing business.
A.10066 Towns	S.5344 Farley	Chapter 235	Strengthens penalties for cashing checks and money orders without a license
A.10817-A Towns	S.8143-A Farley	Chapter 472	Enacts the New York Responsible Lending Act, which strengthens home mortgage loans and foreclosure proceedings law
A.10979 Greene	S.8122 Farley	Chapter 522	Encourages federal credit unions to convert to a state charter
A.11027-A Towns	S.7360-A Farley	Chapter 547	Allows federal credit unions to maintain their special additional mortgage tax exemption when converting to a state charter on or after January 1, 2009
A.11028 Towns	S.7365 Farley	Chapter 209	Allows state and out-of-state banks to establish New York State trust offices after submitting written notice and application fee to the Banking Superintendent
A.11029-A Boyland	S.7358-A Farley	Chapter 315	Updates outdated provisions and clarifies banking law sections by making a series of technical corrections
A.11031 Towns	S.7434 Farley	Chapter 316	Authorizes out-of-state banks to open de novo branches in New York State by submitting an application and receiving approval from the Banking Superintendent
A.11236 Jeffries	S.7761 Farley	Chapter 295	Amends banking and insurance law to reflect current federal law
K.1859 Towns		Adopted	Commends the New York State Banking Department, the New Jersey Department of Banking and Insurance, and the Pennsylvania Department of Banking for signing the Tri- State Banking Compact