



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007  
*Annual Report*

COMMITTEE ON  
BANKS  
DARRYL C. TOWNS, CHAIRMAN

December 15, 2007

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

Dear Speaker Silver:

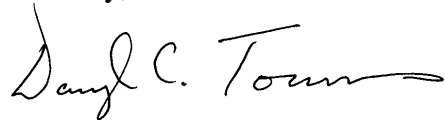
I am pleased to submit the 2007 Annual Report of the Assembly Standing Committee on Banks. The Standing Committee on Banks has made significant progress during 2007 legislative session despite the challenges looming in the mortgage lending sector. The Committee reported legislation that aimed to maintain and enhance the vitality of New York State's financial services, to protect consumers' financial interests and rights, to foster competition, and to ensure sound operations within the industry.

The laws enacted in 2007 will expand banking services to economically undeveloped areas by creating the New York State Community Development Financial Institutions fund to provide business services and resources to small businesses in low to middle income metropolitan areas (Chapter 186); by expanding the State Charter Deposit Program to encourage depositing State funds in local community banks in order to support and promote local economic activity (Chapter 274); and, by reporting legislation (Chapter 553) that will regulate loan originators.

It is a pleasure serving as Chairman of the Assembly Banks Committee. I greatly appreciate your support, the cooperation of my Assembly colleagues – especially the Banks Committee members – and the hard work and dedication of our Committee staff.

I am looking forward to a productive 2008 Legislative Session.

Sincerely,

A handwritten signature in black ink that reads "Darryl C. Towns". The signature is written in a cursive style with a long horizontal flourish at the end.

Darryl C. Towns, Chairman  
Assembly Banks Committee

**2007 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  
Ann-Margaret E. 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

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Ranking Minority Member  
Dierdre K. Scozzafava  
Joseph A. Errigo  
David G. McDonough  
Bill Reilich  
Thomas F. O'Mara  
Jack Quinn

**STAFF**

Ernest Amabile, Legislative Coordinator  
Teri Kleinmann, Associate Counsel  
Yolanda Bostic, Committee Analyst  
Cindy Ceniviva, Program and Counsel Secretary

# Table of Contents

	PAGE(S)
<b>I. Introduction</b>	<b>1</b>
<b>II. Major Issues of 2007</b>	<b>2-7</b>
<b>A. Industry Issues</b>	<b>2-3</b>
1. ATM Transaction for Persons Using Foreign Bank Accounts	2
2. New York State Urban Development Fund for Community Development Financial Institutions	2
3. Banking and Real Property and Proceedings Law Technical Corrections	2
4. Extension on the Effective Date for Open End Loans	2
5. State Charter Deposit Program	3
6. Amending Banking Development District Law	3
7. Increasing Accessibility of Banking Services	3
8. Increasing Capital for Entrepreneurs	3
<b>B. Regulatory Issues</b>	<b>4</b>
1. Mortgage Loan Originator Regulation	4
2. Wild Card Provisions Extension	4
3. Regulating Actions Between Home Improvement Contractors and Mortgage Brokers	4
4. Restricting Access to Payday Loans	4
<b>C. Consumer Products, Protection, and Convenience</b>	<b>5-6</b>
1. High-Cost Loans	5
2. ATM Equal Accessibility for All	5
3. Increasing Disclosure of Banking Activities to Accountholders	5
4. Protecting Banking Consumers from Harsh Account Penalties	5
5. Modernizing the Definition of Domestic Partner	6
6. Prohibiting Solicitation by Lenders of Incompetent Persons	6
<b>D. Vetoes</b>	<b>6</b>
1. Distance Requirement Statute Extension	6
<b>E. Hearings</b>	<b>7</b>
1. Consumer Protection	7
2. Sub-Prime Lending Practices	7
<b>III. 2008 Outlook</b>	<b>8</b>
<b>APPENDICES</b>	<b>9-13</b>
<b>APPENDIX A: SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE COMMITTEE ON BANKS DURING THE 2007 LEGISLATIVE SESSION</b>	<b>9</b>
<b>APPENDIX B: SUMMARY OF FINAL ACTION ON BILLS REPORTED BY THE BANKS COMMITTEE</b>	<b>10-11</b>
<b>APPENDIX C: SUMMARY OF LAWS ENACTED DURING THE 2007 LEGISLATIVE SESSION</b>	<b>12</b>
<b>APPENDIX D: SUMMARY OF BILLS VETOED DURING THE 2007 LEGISLATIVE SESSION</b>	<b>13</b>

# 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, 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 2007 legislative sessions, 104 bills were considered by the Banks Committee. Of these bills, 20 were reported favorably by our committee, 16 passed the Assembly, and 8 were signed into law.

## **II. Major Issues of 2007**

During the 2007 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 customer protection, enhancing the safety and soundness of the banking industry, and ensuring access to financial services.

### **A. Industry Issues**

#### **1. ATM Transaction for Persons Using Foreign Bank Accounts**

**A.6490 (Towns)/S.2747 (Farley)**

**Chapter 114 (2007)**

This law protects an Automatic Teller Machine operator's right to charge an ATM access fee for account holders using an account from a financial institution located outside of the United States.

#### **2. New York State Urban Development Fund for Community Development Financial Institutions**

**A.6681-A (Towns)/S.3575-A (Farley)**

**Chapter 186 (2007)**

This law increases economic activity in economically disadvantaged areas by creating a fund for New York State Community Development Financial Institutions which would be used to provide business services and resources to small businesses in low to middle income metropolitan areas.

#### **3. Banking and Real Property and Proceedings Law Technical Corrections**

**A.8365 (Jeffries)/S.4958 (Farley)**

**Chapter 154 (2007)**

This law increases consistency in existing sections of the Banking Law and Real Property Actions and Proceedings Law by making a series of technical corrections.

#### **4. Extension on the Effective Date for Open End Loans**

**A.8571 (Lancman)/S.4782-A (Farley)**

**Chapter 212 (2007)**

This law extends the provisions that outline permissible lender fees that can be applied to open-end loans until June 30, 2009.

**5. State Charter Deposit Program**  
**A.9159 (Towns)/ S.2863-A (Farley)**  
**Chapter 274 (2007)**

This law revises and expands the State Charter Deposit Program to encourage the State to place funds in local community banks in order to support and promote local economic activity.

**6. 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 in 2007; not acted on in the Senate.

**7. Increasing Accessibility of Banking Services**  
**A.1680 (Peralta)**

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

This bill was passed by the Assembly in 2007; not acted on in the Senate.

**8. 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 in 2007; not acted on in the Senate.

## **B. Regulatory Issues**

### **1. Mortgage Loan Originator Regulation A.8793-A (Benjamin)/S.5620-B (Farley) Chapter 553 (2007)**

This legislation improves how mortgage lenders are regulated by defining a Mortgage Loan Originator (MLO), outlining the MLO application process, and requiring the Banking Superintendent to promulgate rules and regulations pertaining to MLOs.

### **2. Wild Card Provisions Extension A.9260 (Towns)/A.7652-B (Towns)/ S.4392-B (Farley) Chapter 322 (2007)**

This law extends the Wild Card provisions that previously had governed federally chartered banks to state-chartered credit unions, state licensed branches, and foreign banking corporations until September 10, 2009.

### **3. 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 2007; not acted on in Senate.

### **4. 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 passed the Assembly in 2007; not acted on in Senate.



## **C. Consumer Products, Protection, and Convenience**

### **1. High-Cost Loans**

**A.8794-A (Towns)/S.5618-A (Farley)  
Chapter 552 (2007)**

This law amends the Banking law to raise the principal loan limit on high-cost loans to be consistent with the federal national mortgage association loan limit.

### **2. 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 in 2007; not acted on in Senate.

### **3. 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 in 2007; referred to Senate.

### **4. 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.

This bill passed the Assembly in 2007; referred to Senate.

**5. 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 in 2007.

**6. Prohibiting Solicitation by Lenders of Incompetent Persons**

**A.7611 (Tobacco)**

This bill would prevent lenders from soliciting incompetent people by voiding loans made in their name and penalizing lenders for issuing such loans.

This bill was referred to the Assembly Codes Committee in 2007.

**D. Vetoes**

**1. Distance Requirement Statute Extension**

**A.4204 (Towns)/S.827 (Farley)**

**Veto Memo 4 (2007)**

This bill would extend the sunset date on the 2001 distance requirement to August 1, 2010 for financial institution's check cashing facilities.

## **E. Hearings**

During the 2007 legislative session, the Assembly Standing Committee on Banks held two public hearings on important banking issues.

### **1. Consumer Protection**

In April 2007, the Assembly Standing Committee on Banks held a joint hearing with the Assembly Standing Committee on Consumer Affairs & Protection to examine credit card industry practices after the United States Governmental Accountability Office released the September 2006 study which concluded the credit card industry used weak disclosure practices and imposed harsh penalties on credit card accounts with late payment histories or with balances that exceeded the credit limit. Industry professionals submitted testimony on credit card billing, marketing, and disclosure practices.

### **2. Sub-Prime Lending Practices**

In May 2007, the Assembly Standing Committee on Banks, along with the Assembly Standing Committees on Judiciary, Consumer Affairs & Protection, Housing and Oversight, Analysis & Investigation held a joint hearing on sub-prime lending practices after New York State experienced high foreclosure rates, decreasing property values, and adjustable mortgage rates that would reset at unaffordable levels. Financial industry professionals, mainly from the lending and banking companies and consumer advocacy groups, submitted testimony on lending practices in the sub-prime market, assisting foreclosure victims, and the necessary steps for foreclosure prevention.

### **III. 2008 Outlook**

The New York State Assembly Standing Committee on Banks will continue to pursue an agenda that responds to the banking industry's 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.

In May 2007, the Assembly Banks Committee held a hearing on sub-prime lending practices. The Committee realized the need for legislation that would encourage responsible mortgage lending practices. The Assembly created the Responsible Lending Act (A. 8972-A, Towns) to outlaw discriminatory and abusive sub-prime lending practices, which was reported by the Assembly Banks Committee this session. The Assembly Banks Committee hopes to work to ensure the passage of the "Responsible Lending Act" in the 2008 legislative session.

During the 2008 legislative session, the Assembly Banks Committee will continue to strengthen the State banking charter, assist financial institutions in being more competitive, and support entrepreneurial ventures as well as ensuring banking services are available to consumers in underdeveloped communities.

**APPENDIX A  
SUMMARY OF ACTIONS ON ALL BILLS  
REFERRED TO THE COMMITTEE ON BANKS  
DURING THE 2007 LEGISLATIVE SESSION**

Final Action	Assembly Bills	Senate Bills	Total Bills
<b><u>Bills Reported With or Without Amendment</u></b>			
To Floor; Not Returning to Committee	4	0	4
To Floor; Recommitted and Died	0	0	0
To Ways and Means Committee	3	0	3
To Codes Committee	5	0	5
To Rules Committee	8	0	8
To Judiciary	0	0	0
<b>Total</b>	<b>20</b>	<b>0</b>	<b>20</b>
<b><u>Bills Having Committee Reference Changed</u></b>			
	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Senate Bills Substituted or Recalled</u></b>			
Substituted		4	4
Recalled		0	0
<b>Total</b>		<b>4</b>	<b>4</b>
<b><u>Bills Defeated in Committee</u></b>			
	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Bills Never Reported, Held in Committee</u></b>			
	<b>80</b>	<b>5</b>	<b>85</b>
<b><u>Bills Never Reported, Died in Committee</u></b>			
	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Bills Having Enacting Clauses Stricken</u></b>			
	<b>4</b>	<b>0</b>	<b>4</b>
<b><u>Motion to Discharge Lost</u></b>			
	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL BILLS IN COMMITTEE</b>	<b>104</b>	<b>9</b>	<b>113</b>

**Total Number of Committee Meetings Held: 5**

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

<b>Assembly Bill # Sponsor</b>	<b>Senate Bill # Sponsor</b>	<b>Final Action</b>	<b>Description</b>
A.52 Lafayette		Passed Assembly	Regulates actions between home improvement contractors and the 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.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.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		Passed Assembly	Prohibits financial institutions from charging account inactivity fees higher than five dollars
A.1680 Peralta		Passed Assembly	Expands banking services to underdeveloped areas by permitting banks, trust companies, or national banks to open multiple branches within banking development districts
A.3205 Sweeney	S.4629 Saland	Passed Assembly	Ensures that capital is available for small businesses
A.4204 Towns	S.827 Farley	Veto Memo 4	Extends the provision that provides for increased competition in the check cashing business
A.6490 Towns	S.2747 Farley	Chapter 114	Allows banking institutions to charge an ATM fee to foreign account holders

<b>Assembly Bill # Sponsor</b>	<b>Senate Bill # Sponsor</b>	<b>Final Action</b>	<b>Description</b>
A.6681-A Towns	S.3575-A Farley	Chapter 186	Increases economic activity in economically disadvantaged areas by creating a fund for New York State Community Development Financial Institutions
A.7611 Tobacco		Referred to Assembly Codes Committee	Prevents persons who are deemed incompetent from being solicited by lenders
A.8365 Jeffries	S.4958 Farley	Chapter 154	Increases consistency of Banking Law and Real Property Actions and Proceedings Law by making a series of technical corrections to existing sections
A.8571 Lancman	S.4782-A Farley	Chapter 212	Continues permissible licensed lender fees for providing open end loans
A.8793-A Benjamin	S.5620-B Farley	Chapter 553	Clarifies the provisions that regulates Mortgage Loan Originators (Article 12-E of the Banking Law)
A.8794-A Towns	S.5618-A Farley	Chapter 552	Raises the “high-cost loan” limit to reflect increasing home prices
A.8972-C Towns		Passed Assembly	Enacts the “New York State Responsible Lending Act of 2008”
A.9159 Towns	S.2863-A Farley	Chapter 274	Revises and expands the State Charter Deposit Program to encourage the State to place funds in local community banks in order to support and promote local economic activity
A.9260 Towns/ A.7652-B Towns	S.4392-B Farley	Chapter 322	Extends the Wildcard provisions that govern federally chartered banks to state-chartered credit unions, and licensed branches, and foreign banking corporation agencies until September 10, 2009

**APPENDIX C**  
**SUMMARY OF LAWS ENACTED DURING THE**  
**2007 LEGISLATIVE SESSIONS**

<b>Assembly Bill # Sponsor</b>	<b>Senate Bill # Sponsor</b>	<b>Final Action</b>	<b>Description</b>
A.6490 Towns	S.2747 Farley	Chapter 114	Allows banking institutions to charge an ATM fee to foreign account holders
A.6681-A Towns	S.3575-A Farley	Chapter 186	Ensures that capital is available for small businesses by creating the New York State Community Development Financial Institutions Program
A.8365 Jeffries	S.4958 Farley	Chapter 154	Increases consistency of Banking and Real Property and Proceedings Law by making a series of technical corrections to existing sections
A.8571 Lancman	S.4782-A Farley	Chapter 212	Continues permissible licensed lender fees for providing open end loans
A.8793-A Benjamin	S.5620-B Farley	Chapter 553	Clarifies the provisions that regulates Mortgage Loan Originators (Article 12-E of the Banking Law)
A.8794-A Towns	S.5618-A Farley	Chapter 552	Raises the “high-cost loan” limit to reflect increasing home prices
A.9159 Towns	S.2863-A Farley	Chapter 274	Revises and expands the State Charter Deposit Program to encourage the State to place funds in local community banks in order to support and promote local economic activity
A.9260 Towns	S.4392-B Farley	Chapter 322	Extends the Wildcard provisions that govern federally chartered banks to state-chartered credit unions, and licensed branches, and foreign banking corporation agencies until September 10, 2009



**APPENDIX D  
SUMMARY OF BILLS VETOED  
DURING 2007 LEGISLATIVE SESSION**

<b>Assembly Bill # Sponsor</b>	<b>Senate Bill # Sponsor</b>	<b>Final Action</b>	<b>Description</b>
A.4204 Towns	S.827 Farley	Veto Memo #4	Extends the provision that provides for increased competition in the check cashing business