

New York State Assembly

**Carl E. Heastie**

*Speaker*



**Committee on Banks**

**Annette M. Robinson**

*Chairwoman*

**2016**

**ANNUAL REPORT**



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

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

ANNETTE M. ROBINSON  
Assemblywoman 56<sup>th</sup> District  
Kings County

CHAIR  
Banks Committee

December 15, 2016

The Honorable Carl E. Heastie  
Speaker of the Assembly  
State Capitol, Room 349  
Albany, NY 12248

Dear Speaker Heastie:

I am pleased to submit the 2016 Annual Report for the Assembly Standing Committee on Banks.

The Standing Committee on Banks made significant progress during 2016, reporting legislation that aimed to maintain and enhance the vitality of our State's financial industry, to expand customer access to not-for-profit banking, to ensure fairness in personal and business lending products, to protect consumers' financial interests and rights, to foster competition, and to maintain sound operations within the industry.

The Committee's significant accomplishments in 2016 included: extending the Banking Development District program, extending the State Charter Advisory Board and requiring the Department of Financial Services to report on online small-business lending products.

2016 marks my final year as Chair of the Banks Committee and 14 years in the Assembly. It has been a true pleasure serving as Chairwoman of the Banks Committee. I want to thank my fellow committee members, both past and present, for all the time and work they have put in serving the interests of the residents of our state. In particular, Mr. Speaker, I want to extend a special thank you for your leadership, support and encouragement. Lastly, I want to express my gratitude for the hard work and dedication of our Committee staff.

I wish you all the best in the 2017 Legislative Session. I am sure that under your leadership the Banks Committee will see continued success next session and on into the future. Thank you.

Sincerely,

Annette M. Robinson, Chairwoman  
Assembly Banks Committee

**2016 ANNUAL REPORT  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON BANKS**

**Annette M. Robinson**  
Chairwoman

**Banks Committee Members**

**Majority**

N. Nick Perry  
William Magee  
Peter J. Abbate, Jr.  
Michael Miller  
David Weprin  
Robert Rodriguez  
Aravella Simotas  
Sean Ryan  
Michael Kearns  
Luis R. Sepulveda  
Walter T. Mosley  
Mark Gjonaj  
Patricia Fahy  
Rodneyse Bichotte  
Michael Blake  
Guillermo Linares  
Kimberly Jean-Pierre  
Rebecca Seawright  
Diana Richardson  
Alice Cancel

**Minority**

Claudia Tenney,  
Ranking Minority Member  
James Tedisco  
Gary Finch  
Andrew P. Raia  
Brian Curran  
Nicole Malliotakis  
Andrew R. Garbarino  
Kieran Michael Lalor  
Dan Stec  
Ronald Castorina

**Staff**

Aaron Suggs, Assistant Secretary for Program and Policy  
Teri Kleinmann, Associate Counsel  
Peter Hoffman, Analyst  
Kendall Jacobsen, Committee Assistant  
Virginia Rawlins, Committee Clerk  
Kathleen Quackenbush, Program and Counsel Secretary

## TABLE OF CONTENTS

<b>I. Introduction</b>	<b>4</b>
<b>II. Major Issues of 2016</b>	<b>5</b>
<b>A. Industry Issues</b>	
1. Credit Union in Banking Development District	<b>5</b>
2. Renewal of Branches within a Banking Development District	<b>5</b>
3. Consummation of a Mortgage Loan	<b>5</b>
<b>B. Regulatory Issues</b>	
1. Pension Load Advancements	<b>5</b>
2. Community Reinvestment Act Assessment Modernization	<b>6</b>
3. Fees on Inactive Accounts	<b>6</b>
4. DFS Hotline Posting	<b>6</b>
<b>C. Consumer Products, Protection, and Convenience</b>	
1. Mail Loan Checks	<b>6</b>
3. Pay Checks in Order Received	<b>7</b>
<b>III. Banking Committee 2017 Outlook</b>	<b>8</b>
<b>IV. Hearings</b>	<b>9</b>
<b>APPENDICES</b>	<b>10-13</b>
<b>APPENDIX A: SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE COMMITTEE ON BANKS DURING THE 2016 LEGISLATIVE SESSION</b>	<b>10</b>
<b>APPENDIX B: SUMMARY OF FINAL ACTION ON BILLS REPORTED BY THE BANKS COMMITTEE</b>	<b>11</b>
<b>APPENDIX C: SUMMARY OF LAWS ENACTED DURING THE 2016 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, credit unions, savings banks, savings and loan associations, licensed lenders, licensed cashers of checks, money transmitters, trust companies, safe deposit companies, bank holding companies, sales finance companies, 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, from both the industry and consumers, including maintaining the competitive balance among financial institutions, protecting customers' interests, providing housing finance, and modifying banking regulations and administration.

During the 2016 legislative session, 73 bills were considered by the Banks Committee. Of these bills, 14 were reported favorably by our committee, 9 passed the Assembly, 2 were signed into law and none were vetoed.

## **II. Major Issues of 2016**

### **Industry Issues**

#### **Credit Union in Banking Development District A.3521-B (Robinson)/S.5521-A (Montgomery)**

This bill would include credit unions and federal credit unions as eligible to participate in the Banking Development District Program (BDD), and provide that the credit union or federal credit union may include in its membership any person or organization located in a community, neighborhood, or rural district with a demonstrated need for banking services, as determined by the Superintendent of Financial Services.

*Advanced to third reading*

#### **Renewal of Branches within a Banking Development District A.5302 (Robinson)/S.6239 (Hamilton)**

This bill would provide that a designation as a BDD shall be valid for ten years. Additionally this bill would give the superintendent of DFS the option to extend the designation by an additional ten years upon determining that there is a demonstrated need for banking services in the district, provided that any bank, trust company or national bank that has established a bank within a BDD shall offer affordable products and services, including financial services, tailored to the BDD's community.

*Advanced to third reading*

#### **Consummation of a Mortgage Loan A.9746 (Richardson)/ S.7183 (Savino)**

This bill would, for the purposes of the act of Congress entitled Truth in Lending Act and the regulations thereunder and the Real Estate Settlement Procedures Act of 1974, as amended, and the regulations thereunder, define the term "consummation of a mortgage loan" as when the applicant for the mortgage loan executes the promissory note and mortgage.

*Chapter 491*

### **Regulatory Issues**

#### **Pension Loan Advancements A.986-A (Rodriguez)**

This bill would direct the Department of Financial Services (DFS) to examine the business practices of those that provide pension loan advancements including the licensing, limits on fees and interest, and disclosure practices. The bill would require DFS to submit a report to the Governor and Legislature, no later than January 1, 2017, containing findings, conclusions and recommendations, including any policy or legislative recommendations as they relate to the practice of pension loan advancements.

*Passed the Assembly*

**Community Reinvestment Act Assessment Modernization**  
**A.3385 (Robinson)/S.6236 (Hamilton)**

This bill would improve the effectiveness of the Community Reinvestment Act (CRA) by making the assessments more informative in order to better understand the availability of banking services for low- to moderate-income consumers. The Superintendent of DFS would be required to write an assessment that explains the financial institution's performance record on meeting the credit needs of the community including: the amount of mortgage/home loans issued; a description of the efforts to market business loans; amount of farm and small business loans; financial investments in and contributions to local nonprofit community (re)development projects/entities and other factors.

*Advanced to third reading*

**Fees on Inactive Accounts**  
**A.3062-A (Robinson)**

This bill would require financial institutions to notify customers in writing, or via email, thirty days prior to charging a fee for account inactivity. The notice must include a telephone number and full contact information for a representative of the financial institution responsible for resolving any matter relating to the fee.

*Advanced to third reading*

**DFS Hotline Posting**  
**A.8347 (Ortiz)**

This bill would require banking institutions to publicly and conspicuously post notice of the DFS' toll free consumer hotline telephone number where consumers may file complaints if they are unsatisfied with the bank's services

*Advanced to third reading*

**Consumer Products, Protection, and Convenience**

**Mail Loan Checks**  
**A.1645 (Pretlow)**

This bill would prohibit lending institutions from issuing mail loan checks without a request or application from the consumer. Additionally it would require any lending institution which issues mail-loan checks to include on the face of each check issued to a non-customer, a written statement, in legible type reading, "one form of valid photographic ID needed to cash or deposit." Institutions must also include information about any transaction fees and interest rates, print checks with an expiration date of not more than six months, make no reference on the outside of the envelope that indicates it contains a mail-loan check, and clarify that all mail-loan checks are non-transferable. Institutions would also be required to clarify that failure to destroy or return a mail-loan check would not constitute acceptance of the check.

*Advanced to third reading*

**Pay Checks in Order Received**

**A.4981 (Robinson) / S.0794 (Breslin)**

This bill would require every banking institution maintaining checking accounts to pay checks in the order received; provided, however, if a check is dishonored for insufficient funds and thereafter smaller checks which could be paid are received, the smaller checks would be honored within the amounts on deposit.

*Advanced to third reading*



### **III. Banking Committee 2017 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 2017 legislative session, the Assembly Banks Committee will continue in its efforts to create legislation that protects New York's small business community from an influx of out-of-state predatory lending products, expands consumers' access to not-for-profit banking options and protect New Yorkers in an unstable fiscal climate.

The Banks Committee will also continue to work on strengthening the New York 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.

Lastly, the Committee will continue to work toward the goal of ensuring access to fair and responsible credit for all borrowers and small businesses in order to strengthen our economy and improve opportunities for all residents of the state.

## **IV. Hearings**

### **Small Business Access to Credit**

According to the Federal Reserve Banks of New York, Atlanta, Cleveland and Philadelphia's 2014 Small Business Credit Survey (SBCS) report, lack of credit and uneven cash flow were in the top three concerns for firms in all stages of development, from "startups" (in business for less than 5 years) to "growers" (profitable businesses with increased revenues) to "mature" businesses (more than 5 years in business, over 10 employees and holds debt). New York State led the survey with 36% of firms reporting using personal savings as their primary source of funding.

The New York State Assembly Standing Committees on Banks and Small Business held a hearing in New York City on December 17, 2015, on the state of small business access to credit. Witnesses discussed the problems small business are having accessing credit, including the fact that the industry is moving on-line and challenges involved with that transition.

As a follow up to the December hearing, on April 11, 2016, the New York State Assembly Standing Committees on Banks, Consumers Affairs and Protection, and Small Business held a public hearing to examine the online lending marketplace in relation to small business access to capital. The committees took testimony from representatives from the New York Business Development Corporation, New York Small Business Development Center, and the Financial Service Center of New York. The testimony discussed the growing role of online small business lending, and whether existing statutes and regulatory practices are sufficient to meet the changing financial landscape and protect small businesses, and strategies to help small businesses navigate an evolving marketplace.

### **Cyber Security in the Banking Sector**

In September 2016, Governor Cuomo announced first-in-the-nation regulations to help protect New York State from the ever-growing threat of cyberattacks. The proposed regulations would require banks, insurance companies, and other financial services institutions regulated by the Department of Financial Services to establish and maintain a cybersecurity program designed to protect consumers and ensure the safety and soundness of New York State's financial services industry.

On December 19, 2016, the Assembly Standing Committee on Banks convened a hearing to explore the cybersecurity needs of banking institutions to protect both individuals and such institutions from cyber threats. With the risk of cyberattack from foreign actors and domestic scammers growing, it is imperative that every step is taken to protect consumer's personal and transactional information. The Committee took testimony from the Independent Bankers Association, Mortgage Bankers Association, title insurers and cybersecurity experts. The testimony discussed the proposed regulations, cyber threats facing the banking industry and what steps can be taken to prevent banking fraud from online actors in real time.

**Appendices**

**APPENDIX A  
SUMMARY OF ACTIONS ON ALL BILLS  
REFERRED TO THE COMMITTEE ON BANKS  
DURING THE 2016 LEGISLATIVE SESSION**

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	2	0	2
TO WAYS AND MEANS	6	0	6
TO CODES	5	0	5
TO RULES	1	0	1
TO JUDICIARY	0	0	0
TOTAL	14	0	14
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Small Business</u>	1	0	1
TO _____	0	0	0
TO _____	0	0	0
TO _____	0	0	0
TOTAL	1	0	1
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		2	2
RECALLED		0	0
TOTAL		2	2
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS HELD FOR CONSIDERATION WITH A ROLL- CALL VOTE</b>	1	0	1
<b>BILLS NEVER REPORTED, DIED IN COMMITTEE</b>	52	10	62
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	5	0	5
<b>MOTIONS TO DISCHARGE LOST</b>	2	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	73	12	85

<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	5
--	---

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

<b>Assembly Bill Number (Sponsor)</b>	<b>Senate Bill Number (Sponsor)</b>	<b>Final Action</b>	<b>Description</b>
A.774 (Rodriguez)	S.3616 (Funke)	Referred to Ways and Means	Authorizes the State to place funds in credit unions in order to support and promote local economic activity.
A.986 (Rodriguez)	No Senate Sponsor	Passed Assembly	Directs the Department of Financial Services to study, evaluate and make recommendations concerning businesses engaged in pension loan advancements
A.1645 (Pretlow)	No Senate Sponsor	Advanced to 3 <sup>rd</sup> Reading	Prohibits banking organizations from issuing mail-loan checks without request or application therefor; provides that failure to destroy or return a mail-loan check does not constitute an acceptance thereof; provides that mail-loan checks shall have the transaction fee and interest rate included on the check.
A.3062-A (Robinson)	No Senate Sponsor	Advanced to 3 <sup>rd</sup> Reading	Requires financial institutions to notify a customer 30 days prior to charging a fee based on account inactivity.
A.3385 (Robinson)	S.6236 (Hamilton)	Advanced to 3 <sup>rd</sup> Reading	Requires inclusion and explanation of additional annual data in meeting the requirements of the Community Reinvestment Act for assessing the record of performance of banking institutions in meeting community credit needs, including loans for housing low- and moderate-income residents of low- and moderate-income areas, and the scope of efforts to market housing and small business loans in low- and moderate-income areas and other data.

**APPENDIX B - Cont.**

A.3521-B (Robinson)	S.5521-A (Montgomery)	Referred to Ways and Means	Includes credit unions and federal credit unions within the definition of bank, trust company or national bank for the purpose of the Banking Development District program.
A.4981-A (Robinson)	S.794-A (Breslin)	Advanced to 3 <sup>rd</sup> Reading	Requires every banking institution maintaining checking accounts to pay checks in the order received; provided, however, if a check is dishonored for insufficient funds and thereafter smaller checks which could be paid are received, the smaller checks shall be honored within the amounts on deposit.
A.5302 (Robinson)	S.6239 (Hamilton)	Advanced to 3 <sup>rd</sup> Reading	Requires renewal of certain branches within banking development districts.
A.8347 (Ortiz)	No Senate Sponsor	Advanced to 3 <sup>rd</sup> Reading	Requires posting notice of the DFS toll free consumer's hot-line telephone number.
A.9480 (Jean-Pierre)	S.7184 (Savino)	Chapter 46	Extends provisions relating to participation in the Banking Development Districts program to January 1, 2023.
A.9634-B (Rodriguez)	S.6985-B (Savino)	Referred to Codes	Relates to enacting the "community financial services access and modernization act of 2016."
A.9746 (Richardson)	S.7183 (Savino)	Chapter 491	Defines the term "consummation of a mortgage loan" as when the applicant for the mortgage loan executes the promissory note and mortgage.
A.10427 (Robinson)	S.7922 (Savino)	Chapter 228	Extends the effectiveness of the state charter advisory board through October 3, 2021.
A.10440 (Cancel)	No Senate Sponsor	Passed Assembly	Requires the superintendent of DFS to study and issue a report on online small business lending products that originate from lenders licensed by New York state or advertised within the state.

**APPENDIX C  
SUMMARY OF LAWS ENACTED DURING THE  
2016 LEGISLATIVE SESSION**

<b>Assembly Bill Number (Sponsor)</b>	<b>Senate Bill Number (Sponsor)</b>	<b>Final Action</b>	<b>Description</b>
A.9480 (Jean-Pierre)	S.7184 (Savino)	Chapter 46	Extends provisions relating to participation in the Banking Development Districts program to January 1, 2023.
A.9746 (Richardson)	S.7183 (Savino)	Chapter 491	Defines the term "consummation of a mortgage loan" as when the applicant for the mortgage loan executes the promissory note and mortgage.
A.10427 (Robinson)	S.7922 (Savino)	Chapter 228	Extends the effectiveness of the state charter advisory board through October 3, 2021.