



2019 ANNUAL REPORT

NEW YORK STATE SENATE STANDING COMMITTEE

ON BANKS



Senator James Sanders Jr.
Chair

NEW YORK STATE SENATE STANDING COMMITTEE ON BANKS

2019 Annual Report

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THE SENATE
STATE OF NEW YORK
ALBANY

CHAIRMAN, MAJORITY MEMBER
BANKS

MEMBER
COMMERCE, ECONOMIC DEVELOPMENT
AND SMALL BUSINESS
CULTURAL AFFAIRS, TOURISM,
PARKS AND RECREATION
INSURANCE
LABOR
VETERANS, HOMELAND SECURITY AND
MILITARY AFFAIRS

December 17, 2019

The Honorable Andrea Stewart-Cousins
Temporary President of the Senate
Majority Leader
New York State Senate
Albany, New York 12247

Dear Senator Stewart-Cousins:

I am pleased to submit the 2019 Annual Report of the New York State Senate Standing Committee on Banks. As Chair, I am proud to continue to lead our efforts to address important matters under my committee's jurisdiction.

During the 2019 session, this committee met four times, reported 69 bills, sponsored a joint public hearing on student loan debt, two roundtables on access to lending, one on Fintech, and one on public banking. The Committee reported legislation that aimed to protect consumers' financial interests and rights and to expand banking services to un-banked and under-banked communities.

Enclosed are the Committee's significant accomplishments and activities for the 2019 legislative session.

It was a pleasure and an honor to serve as Chairman of this Committee. I thank my colleagues who served on the Committee for their efforts and support of the work done in the committee this year. I salute the outgoing Superintendent of the Department of Financial Services, Maria Vullo and welcome new Superintendent, Linda A. Lacewell. As always, I thank you for the continued support from the Majority Conference in the committee's operations.

Sincerely,

James Sanders Jr.

I. Introduction

The New York State Senate Standing Committee on Banks is responsible for reviewing and initiating legislation that affects financial institutions that operate in New York State. The Committee addresses issues arising under the New York State Banking Law.

Entities subject to the jurisdiction of the Banks Committee include banks, credit unions, savings banks, savings and loan associations, licensed lenders, licensed check cashers, 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 financing options, and modifying banking regulations and administration.

II. Major Issues of 2019

A. Industry Issues

Treble Damages for Agents of Licensed Money Transmitters Who Fail to Remit Money

S.2109A (Sanders) / A.1826A (Pichardo)

Chapter 324 of the Laws of 2019

This legislation authorizes the use of treble damages against agents of licensed money transmitters who intentionally or negligently fail to remit payment to the money transmitter. This legislation protects money transmitters from agents who would abscond with funds collected from customers and fail to remit the funds to the transmitter. This legislation is necessary to protect both money transmitters and consumers because prosecuting agencies most often consider these actions to be civil matters, leaving money transmitters no recourse but to undertake costly litigation and pass at least some of the costs onto consumers.

Authorizes State Banks to Exercise the Rights of National Banks

S.5411 (Sanders) / A.7604 (Buttenschon)

Chapter 217 of the Laws of 2019

Under the nation's dual banking system, banking institutions may choose to operate under either a state or federal charter. Almost every state has a banking "wild card" law that provides an administrative mechanism to help maintain parity in regard to the powers of state banks and national banks. The wild card law helps address these concerns by establishing an administrative process to enable New York State to quickly respond to significant parity issues. New York's wild card law included a sunset date, and the law has been extended several times since its original enactment in 1997. This bill would extend the law for an additional five years.

Annual Fees from Licensed Lenders

S.6100 (Sanders) / A.7668 (Seawright)

Chapter 82 of the Laws of 2019

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, 2011, 2013, 2015 and 2017 to extend this authority for an additional two years. The provisions of 1996 law are currently scheduled to expire on June 30, 2019. This bill would extend the provisions of the 1996 law for another two years.

B. Regulatory Issues

Needs of Minority and Women-Owned Business Enterprises as CRA criteria

S.3223 (Sanders) / A.3235 (Dickens)

Chapter 264 of the Laws of 2019

This legislation adds Minority and Women-Owned Business Enterprises as a category that the DFS Superintendent must take into consideration when determining whether a bank is meeting the credit needs of local communities.

Requires an explanation of a bank's CRA evaluation

S.3227A (Sanders) / A.1772A (Peoples-Stokes)

Chapter 560 of the Laws of 2019

This bill requires a bank's CRA evaluation to include a written discussion of their performance record on each of the assessment factors listed in the Community Reinvestment Act. The lack of detail in the CRA assessments results in assessments that are uninformative and of no help to community leaders and others seeking to work with banks to increase the bank's local community lending and overall social responsiveness.

C. Consumer Protection and Convenience

Expansion of Banking Development District Program to include Credit Unions

S.727A (Montgomery) / A.3320 (Zebrowski)

Chapter 629 of the Laws of 2019

This bill would expand access to banking services in communities where there is a demonstrated need for additional products and services by allowing credit unions to participate in the banking development district program. This bill also limits the designation of a banking development district to fourteen years to ensure that once a banking deficit in an underserved community is corrected, the incentives provided under the BDD program are revoked and allocated to other underserved areas.

Obligations of banks and financial institutions to provide more information on applications of modification on a sale of mortgage

S.5017A (Parker)/ A.92A (Perry)

This legislation would provide homeowners, who are in negotiations, to modify the terms of their mortgage with a written list of documents relating to the modification which were provided to the bank or financial institution who acquired the loan when was sold or transferred. This bill will also ensure that if the loan is sold or transferred after a homeowner has been approved for a modification of their mortgage that the subsequent mortgage servicer honor the terms and conditions of the approval.

Increase Number of No-Charge Transactions for Seniors
S.2245 (Sanders) / A.1940 (Zebrowski)
Chapter 260 of the Laws of 2019

This legislation would increase the minimum number of banking withdrawal transactions made at no charge to the customer during one periodic cycle from eight to twelve transactions for those over the age of sixty.

III. Banks Committee 2020 Outlook

The Senate 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 Senate Standing Committee on Banks will continue to pursue an agenda that responds to the banking industry and consumers' needs and concerns.

During the 2020 legislative session, the Senate Banks Committee will continue in its efforts to create and promote legislation that broadens access to business credit, increases financial literacy, and protects financial institutions from theft and fraud. Additionally, according to Deloitte Insights, "concerns about climate change and social impact will force banks to reprioritize their role in society and sacrifice short-term gains for long-term sustainability." As we look to this legislative session, the Committee is invested in addressing climate change—along with the Senate Majority—and the implications it will have on financial institutions.

The Banks Committee will continue to work on strengthening the New York State banking charter not only for our state-chartered banks doing business here, but also for other banking institutions that may be considering obtaining 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 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. Public Hearing

March 4, 2019: The proposed Student Loan Consumer Assistance Program (SCLAP)

On March 4, 2019, the Senate Standing Committee on Banks co-sponsored a Joint Hearing on the proposed Student Loan Consumer Assistance Program (SCLAP) with the Senate Standing Committee on Consumer Protection. The purpose of the hearing was to review the findings of the United State Department of Education Inspector General report on the oversight of student loan servicers, and to consider efforts the State of New York might take to protect student loan borrowers.

In New York, student loan debt is over \$90 billion and growing, involving 2.4 million borrowers. With approximately 20% of New York student loan borrowers in default, it is clear that student loans are having a significant impact on New Yorkers, especially those of low income.

The hearing was recorded and is available online at:

<https://www.nysenate.gov/calendar/public-hearings/march-04-2019/joint-public-hearing-proposed-student-loan-consumer>

V. Roundtables

May 1, 2019: The Promise of Public Banking

On May 1, 2019, the Senate Standing Committee on Banks sponsored a roundtable on Public Banking. The purpose of the roundtable was to inform legislators, staff and public advocates of the benefits of public banking for people, communities and our state.

Public banks power and stabilize some of the world's most just and prosperous economies. For nearly a century, The Bank of North Dakota has supplied North Dakota's businesses, communities and local governments with affordable credit. In 2008, it shielded the state from the worst of the Great Recession. Today, New York is one of dozens of states working to replicate North Dakota's success.

May 2, 2019: Driving Capital to the Invisible Class

On May 3, 2019, the Senate Standing Committee on Banks sponsored a roundtable on the different lending opportunities available for those who have been overlooked by mainstream banking institutions.

Senator Sanders brought together the invisible class, the financial industry and some of the leading lending associations to explore the ways people can access capital. The invisible class is a term used to describe a population within a capitalist society whose needs are almost unmet and unseen.

May 13, 2019: Inclusive Commerce & Financing Symposium

On May 13, 2019, the Senate Standing Committee on Banks sponsored a roundtable on how to ensure that MWBE's and under-banked individuals gain better access to capital.

This roundtable brought together industry and subject matter experts to address financing difficulties that businesses face while figuring out adequate solutions to the issues by exploring the usefulness of new and emerging products and services.

May 20, 2019: Emerging Issues in Fintech: Blockchain, Online Commercial Lending, and the Underserved

On May 20, 2019, the Senate Standing Committee on Banks sponsored a fintech roundtable on the policy of blockchain and online commercial lending within the financial technology industry as they relate to the underserved.

The purpose of the event was to serve as an opportunity for legal experts, industry representatives, and blockchain leaders to discuss the legal and regulatory environment in New York State as it pertains to the fintech industry. Panelists drew on their experiences in the industry and working with the government to provide their perspectives on how the state legislature should engage with the fintech industry to meet the needs of the underserved, foster innovation, and establish the state as a leader in the industry.

S129	CARLUCCI	Establishes the credit reporting rights outreach program	Last Act: 01/08/20 REFERRED TO BANKS
S134	CARLUCCI	Establishes the consumer credit rights and responsibilities outreach program	Last Act: 01/08/20 REFERRED TO BANKS
S297	GIANARIS	Requires transmitters of money to provide a certain warning to consumers	Last Act: 01/15/20 1ST REPORT CAL.175
S727A	MONTGOMERY	Relates to the banking development district program	Last Act: 12/12/19 SIGNED CHAP.629
S982	BRESLIN	Provides that every banking institution maintaining checking accounts for customers shall pay checks in the order received within account balance	Last Act: 01/08/20 REFERRED TO BANKS
S1457	SANDERS	Requires banks to install automatic police notification software on their automated teller machines	Last Act: 01/08/20 REFERRED TO BANKS
S1476B	HOYLMAN	Directs the department of financial services to study and make recommendations concerning lending practices to landlords acquiring property that includes small business and/or rent-regulated tenants	Last Act: 01/08/20 REFERRED TO BANKS
S1589	SANDERS	Establishes the state financial literacy commission	Last Act: 01/08/20 REFERRED TO BANKS
S1956	THOMAS	Grants the department of financial services jurisdiction over the financing of motor vehicles	Last Act: 01/08/20 REFERRED TO CONSUMER PROTECTION

S1958	THOMAS	Requires the licensure of student loan servicers	Last Act: 01/09/20 RECOMMIT, ENACTING CLAUSE STRICKEN
S2088	SANDERS	Relates to unauthorized entities, unregistered mortgage brokers and mortgage fraud	Last Act: 01/08/20 REFERRED TO BANKS
S2105	SANDERS	Relates to modifying delinquent mortgage loans and single point of contact	Last Act: 01/08/20 REFERRED TO BANKS
S2106A	SANDERS	Requires banks to disclose negative consequences of establishing alternative payment schedule on a loan	Last Act: 01/15/20 1ST REPORT CAL.176
S2109A	SANDERS	Requires agents of licensed money transmitters to remit moneys to the licensee within the time frame provided in the contract between the agent and the licensee	Last Act: 10/03/19 SIGNED CHAP.324
S2120	SANDERS	Relates to the banking development district program	Last Act: 01/08/20 REFERRED TO BANKS
S2133	SANDERS	Creates the consumer overdraft protection act	Last Act: 01/08/20 REFERRED TO BANKS
S2245	SANDERS	Increases number of withdrawal transactions from basic banking accounts for account holders sixty-five years of age or older from eight to twelve	Last Act: 05/21/19 SUBSTITUTED BY A194 009/13/19 signed chap.260

S2295	SANDERS	Authorizes the New York state department of financial services to oversee the planned closing of bank branch offices by federally chartered banking organizations	Last Act: 01/08/20 REFERRED TO BANKS
S2342	KAVANAGH	Provides for the inclusion of low income credit unions in the banking development district program in cities having a population of one million or more persons	Last Act: 01/08/20 REFERRED TO BANKS
S2397	COMRIE	Directs the department of financial services and the department of state's consumer protection division to conduct a study on consumer awareness and financial education in New York state	Last Act: 01/15/20 1ST REPORT CAL.177
S2402	COMRIE	Requires ATM machines to release ATM cards with EVM chips prior to disbursing cash or a receipt	Last Act: 01/08/20 REFERRED TO BANKS
S2426A	KAPLAN	Relates to student debt consultants	Last Act: 01/08/20 REFERRED TO BANKS
S2453	JORDAN	Relates to prohibiting banking organizations from imposing check cashing fees	Last Act: 01/08/20 REFERRED TO BANKS
S2520	HARCKHAM	Establishes the federal shutdown affected employees loan program	Last Act: 01/08/20 REFERRED TO BANKS
S2535	COMRIE	Relates to prohibiting financial institutions from charging a fee for periodic paper statements	Last Act: 01/08/20 REFERRED TO BANKS
S2539	COMRIE	Relates to regulation of consumer reporting agencies	Last Act: 01/08/20 REFERRED TO BANKS

S2765	COMRIE	Requires the mortgage bill of rights pamphlet on residential mortgages	Last Act: 01/08/20 REFERRED TO BANKS
S2807	COMRIE	Requires banks to send account notifications in certain circumstances	Last Act: 01/08/20 REFERRED TO BANKS
S2880	SANDERS	Relates to requiring all banks and credit unions to have a notary public available during business hours	Last Act: 01/08/20 REFERRED TO BANKS
S3028	FUNKE	Relates to credit unions	Last Act: 01/08/20 REFERRED TO BANKS
S3212	COMRIE	Requires 10% of the penalties imposed by the superintendent of financial services to be deposited in the community development financial institution fund	Last Act: 01/08/20 REFERRED TO BANKS
S3223	SANDERS	Relates to assessment of the record of performance of banking institutions in helping to meet the credit needs of local communities	Last Act: 06/18/19 SUBSTITUTED BY A3235 09/13/19 signed chap.264
S3227A	SANDERS	Requires the assessment of a banking institution's record of performance to be in writing	Last Act: 12/06/19 SIGNED CHAP.590
S3230	SAVINO	Relates to requiring a notice to be posted on all automated teller machines regarding skimming	Last Act: 01/08/20 REFERRED TO BANKS
S3241	COMRIE	Prohibits foreign banking corporations from issuing payday loans	Last Act: 01/08/20 REFERRED TO BANKS

S3312	SANDERS	Relates to the banking development district program	Last Act: 06/06/19 RECOMMIT, ENACTING CLAUSE STRICKEN
S3544	COMRIE	Requires mortgage lenders and brokers to provide consumer with mortgage bill of rights pamphlet which must be signed by the consumer prior to mortgage application	Last Act: 01/08/20 REFERRED TO BANKS
S3686B	BIAGGI	Relates to reverse cooperative apartment unit loans for persons seventy years of age or older	Last Act: 12/13/19 VETOED MEMO.213
S3777	GRIFFO	Increases the penalty for robbery of property from a bank; makes the crime a class C felony	Last Act: 01/08/20 REFERRED TO BANKS
S3838	GRIFFO	Increases penalties for individuals or companies who engage in the business of cashing checks, drafts or money orders for consideration without a license	Last Act: 01/08/20 REFERRED TO BANKS
S3847	HELMING	Relates to the use of powers of attorney in banking transactions	Last Act: 01/08/20 REFERRED TO BANKS
S3850	SANDERS	Relates to asset-based lending transactions	Last Act: 01/08/20 REFERRED TO BANKS
S4188	KENNEDY	Requires financial institutions to notify a customer prior to charging a fee based on account inactivity	Last Act: 01/15/20 1ST REPORT CAL.178
S4371	PARKER	Requires lending institutions that send unsolicited mail-loan checks to clearly state the interest rate and the total cost of loan in a dollar amount	Last Act: 01/08/20 REFERRED TO BANKS

S4532	PARKER	Provides criteria for membership in credit unions and permits the extension of certain services to nonmembers	Last Act: 01/08/20 REFERRED TO BANKS
S4545	PARKER	Provides that there shall be no solicitation for credit card holders through state or city university of NY unless credit education courses are provided	Last Act: 01/08/20 REFERRED TO BANKS
S4593	PARKER	Relates to the creation of the digital currency task force	Last Act: 01/08/20 REFERRED TO INTERNET AND TECHNOLOGY
S4628	SANDERS	Prohibits banking organizations from issuing mail-loan checks without request or application therefor	Last Act: 01/08/20 REFERRED TO BANKS
S4652	SANDERS	Relates to including information concerning repayment of outstanding loans in the standard financial aid award letter	Last Act: 01/08/20 REFERRED TO BANKS
S4745	PARKER --	Relates to alternative investment bonds	Last Act: 01/08/20 REFERRED TO BANKS
S4921	SANDERS	Relates to clarifying definitions of "illegal money transmission" and "money laundering"; and relates to penalties for unlicensed money transmitters	Last Act: 01/08/20 REFERRED TO BANKS
S4931	SANDERS	Relates to requiring posting notice of the department of financial services toll free consumer's hotline telephone number	Last Act: 10/29/19 SIGNED CHAP.423
S4934	SANDERS	Enacts the New York state money transmission disclosure act	Last Act: 01/08/20 REFERRED TO BANKS

S4935	SANDERS	Prohibits banks from holding for deposit state issued check	Last Act: 01/08/20 REFERRED TO BANKS
S4954	ANTONACCI	Relates to extending certain provisions authorizing banks and trust companies to exercise the rights of national banks	Last Act: 05/01/19 RECOMMIT, ENACTING CLAUSE STRICKEN
S4965	SKOUFIS	Requires individuals who perform compliance functions, duties or tasks to obtain a compliance officer or compliance practitioner license	Last Act: 01/08/20 REFERRED TO BANKS
S5001	PARKER	Prohibits a service charge or minimum balance requirement for attorney trust accounts	Last Act: 01/08/20 REFERRED TO BANKS
S5017A	PARKER	Relates to the obligations of banks and financial institutions during the sale of a mortgage subject to an application for modification	Last Act: 06/20/19 SUBSTITUTED BY A92A 08/14/19 signed chap.166
S5037	PARKER	Relates to the report of suspected financial exploitation	Last Act: 01/08/20 REFERRED TO BANKS
S5060	PARKER	Establishes the office of financial resilience	Last Act: 01/08/20 REFERRED TO BANKS
S5065	PARKER	Enacts the Home Equity Fraud Act to control improper activities by home improvement contractors and finance companies	Last Act: 01/08/20 REFERRED TO BANKS
S5290	THOMAS	Relates to refinancing of an existing mortgage loan	Last Act: 01/08/20 REFERRED TO BANKS

S5390	COMRIE	Requires what mortgage applicant's need to know pamphlet on residential mortgages	Last Act: 01/08/20 REFERRED TO BANKS
S5411	SANDERS	Relates to extending certain provisions authorizing banks and trust companies to exercise the rights of national banks	Last Act: 06/11/19 SUBSTITUTED BY A7604 08/30/19 signed chap.217
S5423	SEPULVEDA	Relates to enacting the "community financial services access and modernization act of 2019"	Last Act: 01/08/20 REFERRED TO BANKS
S5433A	BENJAMIN	Prohibits state chartered banking institutions from investing in and providing financing for private prisons	Last Act: 01/08/20 REFERRED TO BANKS
S5470	THOMAS	Relates to commercial financing disclosures	Last Act: 01/08/20 REFERRED TO BANKS
S5565	SANDERS	Relates to the establishment of public banks in the State of New York	Last Act: 01/08/20 REFERRED TO BANKS
S6079A	SANDERS	Allows credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations	Last Act: 01/08/20 REFERRED TO BANKS
S6100	SANDERS	Relates to extending the effectiveness of provisions of law relating to permissible fees in connection with open end loans	Last Act: 07/03/19 SIGNED CHAP.82



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