

NEW YORK STATE
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on
Banks

Darryl C. Towns, Chairman



Annual
Report 2010

**2010 ANNUAL REPORT
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON BANKS**

Darryl C. Towns

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TABLE OF CONTENTS

	PAGE(S)
I. Introduction	3
II. Major Issues of 2010	4-7
A. Industry Issues	4
1. Modernizing Provisions of the Banking Law	4
2. Extending Provisions for Check Cashers	4
3. Simplifying the Application for a Bank Holding Company	4
B. Regulatory Issues	5
1. Protecting Account Holders from Unnecessary Insufficient Fund Fees	5
2. Permanently Establishing Provisions for Check Cashers	5
C. Consumer Products, Protection, and Convenience	6-7
1. Simplifying Social Security Check Cashing	6
2. Protecting Consumers from Unsolicited Loan Checks	6
3. ATM Equal Accessibility for All	6
4. Protecting Mortgage Applicant's Rights	6
5. Requiring Notice of Fees and Charges for Safe Deposit Boxes	6-7
D. Hearings	8
III. 2011 Outlook	9
APPENDICES	10-14
APPENDIX A: SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE COMMITTEE ON BANKS DURING THE 2010 LEGISLATIVE SESSION	10
APPENDIX B: SUMMARY OF FINAL ACTION ON BILLS REPORTED BY THE BANKS COMMITTEE	11-12
APPENDIX C: SUMMARY OF LAWS ENACTED DURING THE 2010 LEGISLATIVE SESSION	13
APPENDIX D: SUMMARY OF BILLS VETOED DURING 2010 LEGISLATIVE SESSION	14

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 understand 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 2010 legislative sessions, 89 bills were considered by the Banks Committee. Of these bills, 16 were reported favorably by our committee, 10 passed the Assembly, and 3 were signed into law.

II. Major Issues of 2010

During the 2010 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. Modernizing Provisions of the Banking Law
A.10930 (Benjamin)/S.7444 (Foley)
Chapter 216 of the Laws of 2010

This law modernizes certain provisions of the Banking Law by allowing various banking institutions to hold authorized but unissued shares and conforming the Banking Law to the Business Corporation law with respect to preemptive rights.

2. Extending Provisions for Check Cashers
A.10941 (Towns)/S.6699 (Foley)
Chapter 209 of the Laws of 2010

This law provides greater certainty and stability to the check cashing industry by extending the sunset provisions on Chapter 591 of the Laws of 2001 until August 1, 2013. Chapter 591 of 2001 provides that any separate check cashing facilities established by banking institutions be subject to the existing distance standard which applies to the licensing of check casher operations.

3. Simplifying the Application for a Bank Holding Company
A.11120 (Towns)/S.7446 (Foley)
Chapter 217 of the Laws of 2010

This law simplifies and streamlines the application of a bank holding company by broadening current language concerning the acquisition of the stock of a banking corporation, removing the requirement for a New York bank holding company to register with the Banking Department within 180 days of becoming a bank holding company, and removing the approval requirements and application standards for becoming a bank holding company in view of the fact that applications are no longer required for approval.

B. Regulatory Issues

1. Protecting Account Holders from Unnecessary Insufficient Fund Fees A.6685 (Miller J)/S.8146 (Breslin)

This bill would require every banking institution maintaining a checking account for a customer to pay checks in the order received provided that if a check is dishonored due to insufficient funds any subsequent smaller check received, which can be paid, are honored within the amounts on deposit in the subject account.

This bill passed the Assembly and is in the Senate Banks Committee.

2. Permanently Establishing Provisions for Check Cashers A.9872 (Towns)/S.6698 (Foley) Veto Memo #10

This bill would eliminate the arbitrary sunset date on the provisions of law enacted by Chapter 591 of the Laws of 2001.

This bill was vetoed based on the Banking Department's 2007 report concluding that the check cashing industry was in a state of flux as a result of cost pressures and the departure of funding sources. However, the extender for the check cashing provisions was signed into law as Chapter 209 of the Laws of 2010.

C. Consumer Products, Protection, and Convenience

1. Simplifying Social Security Check Cashing A.2600-A (Markey)/S.7946 (Peralta)

This bill would require every banking organization or foreign banking corporation to cash properly endorsed social security checks upon presentation of sufficient identification, even if the payee is a non-depositor.

This bill passed the Assembly and is on Third Reading in the Senate.

2. Protecting Consumers from Unsolicited Loan Checks A.2604 (Pretlow)/S.0064 (Sampson)

This bill would prohibit banks from issuing unsolicited loans in the form of checks, the endorsement or deposit of which constitutes the acceptance of the loan.

This bill passed the Assembly and is in the Senate Banks Committee.

3. ATM Equal Accessibility for All A.4766-A (Weisenberg)

This bill would require automated teller machines (ATMs) to use both an audio and visual system for relaying messages to its customers.

This bill passed the Assembly and is in the Senate Banks Committee.

4. Protecting Mortgage Applicants' Rights A.10502 (Jeffries)/S.7399 (Peralta) Veto Memo #6781

This bill would require mortgage lenders and brokers to provide the consumer with a mortgage bill of rights pamphlet which must be signed by the consumer prior to the mortgage application.

This bill was vetoed due to significant policy and technical problems which are listed in Veto Memo #6781.

5. Requiring Notice of Fees and Charges for Safe Deposit Boxes A.10918 (Silver)/S.8066 (Squadron) Veto Memo #6784

This bill would require banking organizations or a safe deposit company to provide a schedule of all fees and charges applicable to the rental of a safe deposit box and prohibit

fees or charges from being imposed on a lessee when an act of God, common disaster, or emergency situation renders the lessee unable to access the safe deposit box.

This bill was vetoed due to the fact that the fee restrictions on State-chartered banking institutions and safe deposit companies under this bill would not be applicable to national banks and federal thrifts, creating a significant competitive disadvantage for State-chartered institutions. (Veto Memo #6784)

D. Hearings

During the 2010 legislative session, the Assembly Standing Committee on Banks held a public hearing on the impact of the mortgage foreclosure process and crisis.

On November 17, 2010 the Assembly Standing Committee on Banks held a joint hearing with the Assembly Standing Committees on Judiciary and Housing to examine the statutory and regulatory framework for the mortgage foreclosure process and to review and assess the impact of funds appropriated to aid homeowners facing foreclosure. The hearing also examined ways in which to better enable lenders, homeowners, and courts to disentangle the web of mortgage promissory note assignment, the complexity and opaqueness of which has contributed, in part, to the state and national foreclosure crisis. Industry professionals submitted testimony addressing ways to ensure accurate court submissions by those parties who have legal standing to foreclose a mortgage and the equity and effectiveness of the counseling and legal services funded by this and prior appropriations.

III. Banking Committee 2011 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 2011 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 as well as support programs that would ensure that banking services are available to consumers in underdeveloped communities and to support entrepreneurial ventures. In addition, the Banking Committee in collaboration with the Consumer Affairs Committee will continue to deal with the crisis of the debt settlement industry in order to further protect the citizens of the State of New York.

APPENDIX A
SUMMARY OF ACTIONS ON ALL BILLS
REFERRED TO THE COMMITTEE ON BANKS
DURING THE 2010 LEGISLATIVE SESSIONS

Final action	Assembly bills	Senate bills	Total bills
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	5	0	5
To Ways and Means Committee	1	0	1
To Codes Committee	9	0	9
To Rules Committee	1	0	1
To Judiciary	0	0	0
Total	16	0	16
<u>Bills Having Committee Reference Changed</u>			
To ___Tourism___ Committee	1	0	1
To _____ Committee			
To _____ Committee			
To _____ Committee	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		3	3
Recalled		0	0
Total		3	3
<u>Bills Never Reported, Held in Committee</u>			
	7	0	7
<u>Bills Never Reported. Died in Committee</u>			
	58	3	61
<u>Bills Having Enacting Clauses Stricken</u>			
	7	0	7
<u>Motions to Discharge Lost</u>			
	0	0	0
TOTAL BILLS IN COMMITTEE	89	6	95

Total Number of Committee Meetings Held: 6

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

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.2600 (Markey)	S.7946 (Peralta)	Passed Assembly	Enables senior citizens to cash social security checks without maintaining an account at the bank honoring such check.
A.2604 (Pretlow)	S.64 (Sampson)	Passed Assembly	Prohibits banking organizations from issuing checks for unsolicited loans.
A.4766-A (Weisenberg)		Passed Assembly	Requires that ATMs use both audio and visual systems to relay messages to its customers.
A.6685 (Miller J)	S.8146 (Breslin)	Passed Assembly	Provides that every banking institution maintaining checking accounts for customers shall pay checks in the order received within account balance.
A.9872 (Townes)	S.6698 (Foley)	Vetoed Memo 10	Makes permanent the provisions of Chapter 591 of the Laws of 2001 relating to limiting the check cashing exemption for national banks and other regulated entities.
A.10502 (Jeffries)	S.7399 (Peralta)	Vetoed Memo 6781	Requires mortgage lenders and brokers to provide consumers with mortgage bill of rights pamphlets which must be signed by the consumer prior to a mortgage application.
A.10918 (Silver)	S.8066 (Squadron)	Vetoed Memo 6784	Requires a notice to be given to renters of safe deposit boxes regarding fees and charges.
A.10930 (Benjamin)	S.7444 (Foley)	Chapter 216	Relates to authorized and unissued shares of banks, trust company, and investment company stocks and changes the presumption as to preemptive rights of shareholders.

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.10941 (Towns)	S.6699 (Foley)	Chapter 209	Relates to extending the provisions of Chapter 591 of the Laws of 2001 relating to limiting the check cashing exemption for national banks.
A.11120 (Towns)	S.7446 (Foley)	Chapter 217	Simplifies and streamlines the application for the bank holding company provisions.

APPENDIX C
SUMMARY OF LAWS ENACTED DURING THE
2010 LEGISLATIVE SESSIONS

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.10930 (Benjamin)	S.7444 (Foley)	Chapter 216	Relates to authorized and unissued shares of bank, trust company, and investment company stock and changes the presumption as to preemptive rights of shareholders
A.10941 (Towns)	S.6699 (Foley)	Chapter 209	Relates to extending the provisions of Chapter 591 of the Laws of 2001 relating to limiting the check cashing exemption for national banks.
A.11120 (Towns)	S.7446 (Foley)	Chapter 217	Simplifies and streamlines the application for a bank holding company.

**APPENDIX D
SUMMARY OF BILLS VETOED
DURING 2010 LEGISLATIVE SESSION**

Assembly Bill Number Sponsor	Senate Bill Number Sponsor	Final Action	Description
A.9872 (Towns)	S.6698 (Farley)	Veto Memo #10	Makes permanent the provisions of Chapter 591 of the Laws of 2001 relating to limiting the check cashing exemption for national banks and other regulated entities.
A.10502 (Jeffries)	S.7399 (Peralta)	Veto Memo #6781	Requires mortgage lenders and brokers to provide consumers with a mortgage bill of rights pamphlet which must be signed by the consumer prior to a mortgage application.
A.10918 (Silver)	S.8066 (Squadron)	Veto Memo #6784	Requires notice to be given to renters of safe deposit boxes regarding fees and charges.