



MEMORANDUM IN OPPOSITION

June 1, 2021

**A.5698A Rozic (Assembly Rules)
S.133A Mayer (On Senate Third Reading)**

AN ACT to amend the general business law, in relation to establishing a set grace period for the use of credit card reward points.

This memorandum in *opposition* is written on behalf of our client, the New York Bankers Association (NYBA). NYBA is comprised of small, regional, and large banks across every region of New York State. Together NYBA members employ nearly 200,000 New Yorkers, safeguard \$2 trillion in deposits, and extend nearly \$70 billion in home and small business loans.

This bill would require that notice be provided to credit card holders within forty five days of the cancellation, closure, termination or modification of a credit card rewards account and mandate a ninety day “grace period” for the use of reward points after the closing of a credit card account. The bill would further make it unlawful for credit card rewards points programs to expire in New York state. While NYBA appreciates the intention to protect consumers, this measure is technically flawed in several areas:

1. The legislation requires that notice be provided to the account holder “if any credit card account or rewards program is modified, canceled closed or terminated...”. “Modified” is not defined in the bill. If the issuer updates its rewards program website or reprices an item in its rewards catalogue, is that a “modification” that triggers the notice requirement.? More specific language, such as use of the term “*materially* modified,” would provide clarity on this issue.
2. While the bill laudably excludes a card holder who commits fraud or misuse of a credit card from the protection it affords, the language would still allow a person who has defaulted on payment to continue to use points event though they have not paid for the points, which is counter intuitive. If a person makes numerous charges and accumulates a number of points, but them does not pay the bill, this legislation would allow the person to keep and use points that have not been paid for, which is analogous to fraud.
3. While the bill would require a ninety-day grace period, current credit card issuers can immediately forfeit rewards in the event of default. Missed payments are specifically referred to as a “minimum sixty days” before default would occur in most cases, and thus a ninety-day grace period would not square with that time frame.

4. Finally, the bill allows for a card holder to redeem points for a period of ninety days if the account has been modified. Most agreements nationwide allow for a thirty-day period for redemption of points. Differing time frames specific only to New York will create unnecessary confusion for account holders, who may open accounts in other states.

While NYBA notes the laudable consumer protection goals of the legislation, without the technical and necessary changes noted above, the requirements in the bill as written would be unnecessarily arduous to administer and cause unnecessary confusion for consumers.

For these reasons, the New York Bankers Association opposes this legislation in its present form and urges that it be held.

Respectfully submitted,

SHENKER RUSSO & CLARK LLP