



MEMORANDUM IN OPPOSITION

May 10, 2021

A.7334 Pichardo (Assembly Banks)

S.670 Sanders (Senate Banks)

Allows credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations

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.

NEW YORK SHOULD NOT ALLOW CREDIT UNION PUBLIC DEPOSITS

CREDIT UNIONS HAVE MORPHED INTO SOME OF THE LARGEST FINANCIAL INSTITUTIONS IN REGIONS AROUND NEW YORK STATE, MOVING WELL BEYOND THEIR INITIAL MISSION AND PURPOSE.

- Credit unions were originally formed in 1934 for the limited purpose of serving people of modest means who were tied by a common bond—usually an employer, church or association. However, in recent years credit unions have strayed far from their original “mom and pop” mission into a \$1.5 trillion industry, which, evidence shows, largely serves only middle- and upper-income households. **In fact, credit unions have grown faster since the 2008 financial crisis than either small or large banks.**
- The original common bond requirement for credit unions also gave them significant benefits, such as near complete tax relief, less capital requirements, and relaxed regulatory regimes—all premised on the idea that a small credit union organization would have a mission to serve its members through simple deposit taking and loan making. **In recent years, credit unions have morphed into a major force in consumer finance, offering lending for high value purchases, wealth management services and multi-million dollar commercial real estate lending, with the same 1934 benefits and regulatory relaxation.**
- Many banks are smaller than the largest credit unions in every region in New York State. These community banks are subject to strict capital, safety, and soundness requirements, examined regularly by state and federal regulators, must comply with community CRA requirements, and must pay taxes like all banks. With the morphing of credit unions into large financial institutions, these community banks must compete head-to-head with tax and CRA exempt credit unions. **Simply put, allowing credit unions to take public deposits would devastate the community banks of New York, and could leave our cities and towns with less options for safe public deposits of our tax payer money.**

CREDIT UNION FUNDS ARE NOT AS SECURE AS INSURED BANK FUNDS, AND ARE RESTRICTED IN THEIR INVESTMENT OPTIONS, PLACING UNDUE RISK ON THE STATE AND LOCALITIES.

- Credit unions have made much ado about their ability to provide a higher interest rate for public deposit takers. **However, it is imperative to note that these higher interest rates are only temporary and fluctuate with the economy, and deposits will be put at greater risk in a higher interest rate credit union account versus an account in a well-capitalized, highly regulated and examined, FDIC-insured bank.** In other words, the state and municipalities may benefit in the short term, but they are putting their deposits at greater risk for the long term.
- Credit unions have different capital requirements than those required for banks. Banks can only be chartered if they have sufficient capital to begin operations, and will thus issue capital stock in order to create and maintain that capital. Credit unions, under the 1934 law, do not have such stringent requirements, nor are they held to the same rules of safety and soundness to which banks must comply. Thus, if a credit union begins a downfall, there is no mechanism to inject new capital rapidly should it be needed. Furthermore, about half of credit unions are allowed to use riskier “secondary” capital instruments which are generally barred for banks. **Credit unions that issue this capital fail at a rate that is 362 percent greater than conservative institutions, including four that failed in New York State just this year.**
- Credit unions do not (and have no incentive to) invest in tax free municipal bonds that finance many state projects, school facilities, and municipal services (like state colleges, hospitals, parks, fire stations and equipment). **Banks are a primary purchaser of municipal bonds and government obligations, which serve as primary collateral for government deposits.**
- For every dollar of public deposits pulled out of a bank in New York, there is a corresponding loss in investment activity. These are also revenue-producing dollars that would be taken out of state and local government coffers. **Our local cities and towns cannot afford that right now.**

CREDIT UNIONS ARE NOT SUBJECT TO OR SUPERVISED UNDER THE COMMUNITY REINVESTMENT ACT.

- Banks are subject to federal and State Community Reinvestment Act (CRA) requirements. In other words, bank deposits are required to be put back into the community and put to work for homebuyers, families, schools, hospitals and emergency services. **Credit unions are NOT subject to CRA, and thus are not required to lend in their communities, nor are they held accountable on community investments through annual examinations.**
- Credit unions like to refer to themselves as “not-for-profit” when in fact, they are simply tax exempt. The unchanged 1934 law allows credit unions enormous tax advantages so that they will serve their communities. However, **evidence shows that these benefits are being used for executive compensation, multimillion dollar expansion, and community activities that do not meet the challenges that CRA was meant to address, such as affordable housing and workforce development.**
- **At the federal level, credit unions are aggressively seeking exemptions from being regulated or examined on their community activities,** including most recently seeking exemption from oversight by the Consumer Financial Protection Board (CFPB) and the above-mentioned capital requirements.

CREDIT UNIONS DO NOT PAY TAXES, WHICH WILL REDUCE REVENUES TO THE STATE AND LOCALITIES.

- Allowing credit unions to take public deposits would only work against New York by **reducing the state's tax base** as well as leaving less capital in community banks for lending to small businesses and consumers. The taking of deposits from local governments is a core business for banking. These deposits fuel loans, which propel our communities and the infrastructure supporting them. Like all businesses, banks pay a franchise tax to the State and income taxes to the federal government, as well as sales tax and the downstate MTA payroll tax. **Credit unions do not pay these taxes.**
- At a time when New York State has such deep financial needs, why would the State seek to move tax dollars into non-tax paying institutions? Those tax dollars deposited in a bank ultimately grow into revenue for the state and local governments. Once removed to credit unions, **the State will experience a deficit in revenues in subsequent years.**

BOTTOM LINE

Allowing credit unions to take State and municipal deposits will dramatically hurt local banks and the communities they serve.

IF YOU HURT A COMMUNITY BANK, YOU HURT THE COMMUNITY.

For these reasons, the New York Bankers Association **opposes** this legislation and urges that it be held.