



MEMORANDUM IN OPPOSITION TO

S.5771 / A.6511

May 19, 2017

BILL NUMBER: S.5771 (Hamilton) / A.6511 (Morelle)

TITLE OF BILL: "Credit creation pilot program act of New York"

STATEMENT OF OPPOSITION: The "Credit Creation Pilot Program Act of New York" (S.5771 / A. 6511) is a dangerous bill that would create a special exemption from our state's longstanding usury laws – for a single industry player based in California. The company, known as Insikt, seeks to make high-cost loans to struggling New Yorkers, packaged as a pilot program. The bill, however, would blast a hole in our vital state usury laws, which serve as a crucial bulwark against high-cost and predatory lending. The bill would jeopardize financial security for struggling New Yorkers, particularly low-income immigrants and people of color.

This out-of-state company seeks to convince New York legislators that it deserves a special carve-out from our state's strong consumer protection laws. Allowing Insikt to pursue profits in New York through its high-cost lending model, however, would set a dangerous precedent. Why New York legislators would contemplate weakening state consumer protections – especially when the new federal administration and members of Congress are working to dismantle federal financial regulations – is beyond comprehension.

New York has long been a national leader in the fight to keep predatory loans out of our state. This bill would roll back that important progress and allow usurious lending in New York. Moreover, New York is home to a robust network of community development financial institutions (CDFIs) -- which have a proven track record of responsibly meeting the credit needs of New Yorkers and New York communities.

Here's what the "Credit Creation Pilot Program Act of NY" would in fact "create:"

- **High-cost, usurious loans targeted at financially-struggling New Yorkers.** New York's vigorously-enforced civil and criminal usury laws set interest rate caps of 16% and 25%, respectively. The bill, however, would authorize Insikt to make loans to New Yorkers at interest rates more than 280% higher than New York's civil usury cap, and 180% higher than our criminal usury rate cap.
- **A dangerous, slippery slope to payday and other types of predatory loans.** New York State, in its wisdom, bans predatory payday lending through its strong usury laws and consumer protections. Indeed, in a state like California, which permits usurious payday lending, Insikt's high-cost lending might be tolerated as a better alternative to even worse payday loan products. But here in New York – where the Governor, Attorney General, state and federal courts, and other enforcement agencies have successfully driven illegal payday lending from the state – we simply do not need such an "alternative." That's why national consumer protection and civil rights groups, including Center for Responsible Lending and Consumers Union, have gone on record to oppose the Insikt bill effort in New York. Please see [the letter](#) they authored with California Reinvestment Coalition, affirming New York's strong usury cap. Moreover, the Florida state legislature just rejected Insikt's effort to launch a similar pilot program in Florida, notwithstanding that Florida also permits predatory payday lending. State-wide consumer protection and civil rights groups within Florida actively opposed that proposal, and have written [a letter](#) clarifying their opposition to any such pilot program.
- **A largely unregulated and unaccountable brokering system.** The bill would authorize "referral partners" to broker loans -- but inexplicably would exempt them from vital laws that govern brokers, leaving them effectively unregulated. Functioning as lead generators, these "referral partners" could perform various loan

brokering functions, including assembling credit applications, providing loan information to applicants, disbursing loan proceeds, and receiving loan payments from borrowers. Deeming them non-brokers would run counter to public policy lessons we should have learned from the financial crisis. Moreover, and of great concern, most referral partners participating in the pilot program in California are reportedly payday lenders and other fringe financial services companies.

High-cost, usurious loans are simply not the answer to people's income shortfalls. Rather, our priority should be to help all New Yorkers secure a living wage and, where appropriate, gain access to responsible lending that comports with our state consumer protection laws. There is no public policy basis for enacting a law that helps Insikt make profits, and that puts New Yorkers' financial security and our state's strong legal protections in peril.

New York's usury laws are our best line of defense against payday and other forms of predatory lending. Legislating dangerous carve-outs would move New York in exactly the wrong direction. Legislators should oppose "The Credit Creation Pilot Program Act."

For the above reasons, New Economy Project strongly opposes this legislation.

Please contact Andy Morrison at andy@neweconomynyc.org or 212.680.5100 with any questions.