

OPPOSITION TO S.5771/A.6511

Credit Creation Pilot Program Act of New York

From: New York groups
Date: May 25, 2017
Re: Credit Creation Pilot Program Act of New York
(S.5771 /A.6511)

Attached please find 15 memoranda in opposition to S.5771/A.6511 from New York groups.

As the enclosed memoranda make clear, a broad spectrum of New York groups – including community-based organizations, community development financial institutions, affordable housing and foreclosure prevention groups, legal services and community reinvestment, fair lending, and consumer advocacy groups – strongly oppose this bill.

Attached are memoranda in opposition from the following groups (more to follow):

- AARP
- ANHD
- Consumers Union
- Genesee Coop Federal Credit Union
- Hebrew Free Loan Society
- The Legal Aid Society of New York
- Lower East Side People's Federal Credit Union
- MFY Legal Services
- New Covenant Dominion Federal Credit Union
- New Economy Project
- New Yorkers for Responsible Lending
- New York State Council of Churches
- Western New York Area Labor Federation, AFL-CIO
- Western New York Law Center
- Westchester Residential Opportunities

Please contact the groups directly, or Andy Morrison at 212-680-5100, with any questions.



MEMORANDUM OF OPPOSITION: A.6511 (Morelle) same as S. 5771 (Hamilton)

May 2, 2017

BILL NUMBER A.6511 (Morelle) same as S.5771 (Hamilton)

TITLE OF BILL: An act to amend the banking law, in relation to enacting the "credit creation pilot program act of New York"; and providing for the repeal of such provisions upon expiration.

STATEMENT OF OPPOSITION: The "Credit Creation Pilot Program Act of New York" would authorize banks and consumer finance companies to make small dollar loans, with interest rates proposed to be set up to 30%, plus a 5% origination fee and additional fees for late payments.

The bill clearly creates a special exemption from our state's long-standing usury laws and circumvents long-standing New York policies to stop predatory loans in our state. New York's civil and criminal usury laws set interest rate caps of 16% and 25%, respectively. These loan rates clearly exceed New York's existing usury.

AARP believes the result of this would undoubtedly jeopardize the financial security for struggling New Yorkers, particularly those on fixed and low incomes. 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. We should be upholding our consumer laws and strengthening them when possible, not watering them down through a pilot program.

AARP certainly understands the need for access to capital for people who live in areas underserved by banking institutions, but this should not be done in a manner that potentially makes an individual's financial situation worse by charging high-fee and high-interest loans.

The New York State Legislature should be commended for wisely protecting the economic status of low- and moderate-income families by barring such short-term high-interest loans, and the Governor and the Attorney General for enforcing our rules against out-of-state lenders that try to breach them. New York's usury laws are our best line of defense against payday loans and other forms of predatory lending. Legislating dangerous carve-outs would move New York in exactly the wrong direction.

Creating a pilot program that allows exceptions to the New York usury cap would legitimize high-cost small-dollar loans, in a state that does not currently permit them. In so doing, the program could harm many customers who will borrow funds they may not be able to pay back, increasing their debt load, damaging their credit and dramatically increasing the risks of bankruptcy.

High-cost loans that breach New York State's criminal and civil usury cap should not be allowed in our state. AARP strongly opposes this bill and we urge you to oppose this bill and any and all efforts to weaken New York protections against abusive lending.

For the above reasons, AARP strongly opposes this legislation.
Please contact Bill Ferris or David McNally at (518) 434-4194 with any questions.



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:

ANHD is a nonprofit coalition comprised of over 100 neighborhood-based affordable housing and equitable economic development organizations and CDCs with a 30-year track record of engaging in bank reinvestment advocacy on behalf of New York City's low- and moderate-income communities. This includes ensuring that low- and moderate-income New Yorkers have access to safe, affordable, responsible loans.

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, ANHD strongly opposes this legislation.

Please contact Jaime Weisberg, jaime.w@anhd.org with any questions.

MEMO OF OPPOSITION - A.6511

Proposed “Credit Creation Act of New York,” Legislation to Create a Pilot Program to Authorize High Cost Small Dollar Loans

Consumers Union strongly opposes pending legislation that would create a New York “pilot program” to authorize banks and consumer finance companies to make small dollar loans, with interest rates initially proposed to be set up to 30%, plus a 5% origination fee and additional fees for late payment. This greatly exceeds New York’s civil usury cap of 16%, and criminal usury cap of 25%. This so-called “pilot program” to charge higher interest rates than New York law currently allows is being promoted by Insikt, a for-profit “white label financial services platform.” Insikt is a venture-capital funded company promoting higher-interest loans as a purported remedy to help people with poor or nonexistent credit (e.g. a credit file too “thin” to generate a credit score). However, in contrast to what its proponents say, the program would erode longstanding New York protections against abusive consumer loans, which impoverish borrowers, and potentially trap them in a cycle of recurring, high-cost debt.

As you may know, New York is one of 14 states that ban usurious payday or payday-like small-dollar loans. New York has wisely protected the economic status of low- and moderate-income families by barring such short-term high-interest loans, and enforcing our rules against out-of-state lenders that try to breach them. ***The best proven way for policymakers to protect consumers against the debt trap created by high-interest, short-term loans is to enact and enforce a strict interest rate cap.***

Legislators should not be misled by provisions emphasizing the alleged unique “credit-building” features of these small dollar loans in the so-called “Credit Creation Act.” Credit by itself is not a solution for low, stagnant wages in a high-cost economy, where basic expenses such as rent, groceries, health care and transportation exceed what New Yorkers can afford. The temptation to borrow to meet monthly expenses, and then become trapped when high-interest charges and late fees come due, would be the inevitable consequence for many borrowers in the proposed “pilot program.” The reality is that individuals and families need to build INCOME as well as credit. As income increases, consumers can gain access to credit through safer, more mainstream products. Consumers who want to build credit can use existing safe and sustainable products such as secured credit cards, or affordable, responsibly underwritten loans offered by community development financial institutions such as credit unions.

[continued]

If New York State opens a door to allow one segment of the financial services industry to breach our usury cap for small dollar loans, other banks and lending companies will rush in and try to kick that door wide open. Interest rates and fees could be dramatically increased in future years, in response to increased lobbying by the short-term loan industry, which will recycle a portion of its profits to lobby New York state to further weaken interest rate restrictions and consumer protections.

The proponents of this pending proposal say that their lending program is supported by consumer and community groups in California. However, Consumers Union, along with our colleagues at the Center for Responsible Lending, has never taken a support position for the California pilot. Instead, we have worked closely with the California legislature to mitigate the more harmful industry proposals related to the pilot, but continue to have concerns about high rates and fees, as well as insufficient underwriting for these loans.

Furthermore, it is important to note that California also permits extremely high cost payday loans that have APRs of 459%, and no interest rate regulation at all for loans above \$2500. In that context, even APRs of 40-70%, which California adopted for this program, look better than the status quo. However, there is no need for such a “harm reduction” strategy in New York state, because *the state has already barred the door to this type of high-cost, predatory lending.*

Creating a pilot program that creates exceptions to the New York usury cap would popularize and legitimize high-cost small-dollar loans, in a state that does not currently permit them. In so doing, the program would HARM many customers who will borrow funds they will not be able to pay back, increasing their debt load, damaging their credit and dramatically increasing the risks of bankruptcy.

High-cost loans that breach New York State’s criminal and civil usury cap are completely unacceptable to Consumers Union and many other consumer, neighborhood, community and senior organizations. We urge you to vigorously oppose any and all efforts to weaken New York protections against abusive lending.

For more information, contact:



Chuck Bell, Programs Director
Consumers Union
(914) 378-2507
(914) 830-0639 (mobile)
cbell@consumer.org



Genesee Co-op

Federal Credit Union

www.genesee.coop

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Rochester, NY 14620-1327
Phone: 585.461.2230
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MEMO OF OPPOSITION
A.6511 (Morelle), S.5771 (Hamilton)
Credit Creation Pilot Program Act

May 23, 2017

GENESEE CO-OP FCU opposes this bill because it would drive a hole through New York's usury laws and open the door to high-cost loans for our residents.

Genesee Co-op FCU is a 35 year-old community development financial institution serving the Rochester, NY community. We have 3600 members, most of who live in New York State.

This bill, the "Credit Creation Pilot Program Act," would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York's civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

The "pilot program" is being promoted as a solution for people who have poor or nonexistent credit. The reality, however, is that these loans will leave borrowers worse off and will lead them down the road of recurring, high-cost debt. Such expensive loans will have the natural consequence of placing struggling New Yorkers, particularly those on fixed and low incomes, in financial jeopardy.

New York's usury laws already provide the best protection against unaffordable loans. The Legislature has resisted all prior attempts to carve out exceptions to the interest rate limits. The Governor, Attorney General, and Department of Financial Services have acted aggressively to keep high-interest-rate loan products out of our state. There is no reason for the Legislature to consider allowing a special exception that would allow loans of more than double the current allowable rate.

This bill embodies a program that exists in California, and the proponents portray it as a success there. New York, however, is completely different. Because California permits payday loans that can have an interest rate of over 400%, any loan with a lower interest rate will look like a better alternative. In New York, where payday and payday-like loans are illegal because of our usury laws, a loan with a 45% interest rate is simply a predatory product.

New York already has many community-based institutions that currently offer small-dollar loans. These lenders, including CDFIs (Community Development Financial Institutions), make responsibly underwritten loans in economically distressed communities that are often underserved by traditional financial institutions. Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible

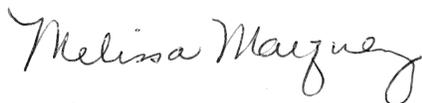
lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

New York is seen as a national leader in protecting residents against high-cost financial products. It is one of 15 states where payday loans are effectively illegal because of state usury laws. In the current national political setting, it is more important than ever for the Legislature to stand strong against any attempts to weaken our usury laws and to protect New Yorkers from high-cost loans.

Genesee Co-op FCU has been serving NY consumers for 35 years. We have offered an alternative to pay day loans for 18 years, with an APR of 18%. This is a product intended to help with emergency situations yet we have learned that a temporary loan is often not the answer as it is often most unaffordable to our lower and moderate income members who are also often the most in need in an emergency or unexpected situation. Credit unions and community development financial institutions will be the best options for New Yorkers facing an unexpected expense.

For the above reasons, we oppose this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Marquez". The signature is written in black ink and is positioned above the typed name and title.

Melissa Marquez
Chief Executive Officer
Genesee Co-op FCU

MEMO OF OPPOSITION
A.6511 (Morelle), S.5771 (Hamilton)
Credit Creation Pilot Program Act



May 23, 2017

The Hebrew Free Loan Society opposes this bill, which would unnecessarily set aside New York's longstanding and widely popular interest-rate cap, opening the door to dangerous high-cost loans that New Yorkers do not need.

Founded in 1892, Hebrew Free Loan Society provides 0%-interest, no-fee loans to low and moderate income New Yorkers. Over our 125-year history, we have lent more than \$300million to over 500,000 New Yorkers. This year we will service a portfolio of \$13million in loans to nearly 2,000 borrowers. We are deeply familiar with the needs and circumstances of low-income borrowers in New York.

This bill, the "Credit Creation Pilot Program Act," would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York's civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

The "pilot program" is being promoted as a solution for people who have poor or nonexistent credit. The reality, however, is that these loans will leave borrowers worse off and will lead them down the road of recurring, high-cost debt. Such expensive loans will have the natural consequence of placing struggling New Yorkers, particularly those on fixed and low incomes, in financial jeopardy.

New York's usury laws already provide the best protection against unaffordable loans. The Legislature has resisted all prior attempts to carve out exceptions to the interest rate limits. The Governor, Attorney General, and Department of Financial Services have acted aggressively to keep high-interest-rate loan products out of our state. There is no reason for the Legislature to consider allowing a special exception that would allow loans of more than double the current allowable rate.

This bill embodies a program that exists in California, and the proponents portray it as a success there. New York, however, is completely different. Because California permits payday loans that can have an interest rate of over 400%, any loan with a lower interest rate will look like a better alternative. In New York, where payday and

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payday-like loans are illegal because of our usury laws, a loan with a 45% interest rate is simply a predatory product.

New York already has many community-based institutions that currently offer small-dollar loans. These lenders, including CDFIs (Community Development Financial Institutions), make responsibly underwritten loans in economically distressed communities that are often underserved by traditional financial institutions. Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

New York is seen as a national leader in protecting residents against high-cost financial products. It is one of 15 states where payday loans are effectively illegal because of state usury laws. In the current national political setting, it is more important than ever for the Legislature to stand strong against any attempts to weaken our usury laws and to protect New Yorkers from high-cost loans.

For the above reasons, we oppose this legislation.

Sincerely,

A handwritten signature in black ink, appearing to be 'DR', followed by a long horizontal line extending to the right.

Rabbi David Rosenn
Executive Director



MEMORANDUM OF OPPOSITION
THE LEGAL AID SOCIETY OF NEW YORK

Civil Practice
199 Water Street
New York, NY 10038
T (212) 577-3300
www.legal-aid.org

Blaine (Fin) V. Fogg
President

Seymour W. James Jr.
Attorney-in-Chief

Adriene L. Holder
Attorney-in-Charge
Civil Practice

May 23, 2017

BILL NUMBER: S.5771 / A.6511

SPONSORS: Senator Hamilton / Assemblymember Morelle

TITLE OF BILL: “Credit Creation Pilot Program Act of New York”

STATEMENT OF OPPOSITION: The Legal Aid Society of New York opposes S. 5771 / A.6511 because carving out an exception under the State’s usury cap for a single industry player based in California could potentially lead to the introduction of payday loans in New York—a major step back for New York consumers. 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. The overwhelmingly destructive nature of these loans has been well documented. Like predatory mortgage lending, these abusive loans threaten the financial well-being of communities. In States where it is legal, similar lending has stripped billions of dollars in wealth from low- and moderate-income communities and from communities of color. In communities of color, payday lenders are three times as concentrated as compared to other neighborhoods.

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.

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. 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.

- **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.

The Legal Aid Society is the oldest and largest legal services provider for low-income families and individuals in the United States. The Society handles some 300,000 cases and legal matters for low-income New Yorkers with civil, criminal and juvenile rights problems annually. This includes more than 30,000 individual civil matters as well as law reform cases which benefit some two million low-income families and individuals. Through a network of ten neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Society's Civil Practice provides comprehensive, direct legal assistance to low-

income New Yorkers. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back-up support and technical assistance for community organizations.

The Legal Aid Society represents low-income consumers who constantly face unethical practices, such as exorbitant interest rates, by unscrupulous lenders. Based on this experience, we have concerns that the bill in its current will open the floodgates to usurious lending in New York. Creditors and lenders have utilized abusive practices to target low-income communities of color, and these efforts will expand exponentially if usurious lending is permitted.

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.

We believe that there are alternative means for loans to consumers that should be explored to make such loans accessible to New Yorkers. Such alternative approaches would permit access to loans for consumers while maintaining the rigorous consumer protections that New York State has historically embraced. 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, The Legal Aid Society strongly opposes this legislation.

Please contact Tashi T. Lhewa at (718) 883-8140 / tllhewa@legal-aid.org with any

questions.



MEMORANDUM IN OPPOSITION TO

S.5771 / A.6511

May 19, 2017

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

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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.

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The Lower East Side People’s Federal Credit Union (LES People’s) has been serving low income, minority households and businesses since 1986. Our loans are affordable and, most importantly, are underwritten to be sure that our borrowers are able to repay. No one “needs” a usurious, costly loan. What they need are fair and affordable loans as provided by our credit union and other CDFIs throughout New York State. If NYS is truly interested in helping financially struggling New Yorkers, please look to the resources we have already – NYS CDFIs.

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, the Lower East Side People’s Federal Credit Union strongly opposes this legislation.

Please contact Linda Levy, llevy@lespfcu.org, 212-529-8197 x120, with any questions.



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OPPOSE

Credit Creation Pilot Program Act

May 24, 2017
A.6511 (Morelle)
S.5771 (Hamilton)

MFY Legal Services, Inc. (MFY) (soon to be Mobilization for Justice) opposes this bill because it would drive a hole through New York's usury laws and open the door to high-cost loans for New York State residents.

MFY envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 20,000 New Yorkers each year. Specifically, MFY'S Consumer Rights and Low-Income Bankruptcy projects provide advice, counsel, and representation to low-income New Yorkers on a range of consumer problems, including predatory lending and scams.

This bill, the "Credit Creation Pilot Program Act," would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York's civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

The "pilot program" is being promoted as a solution for people who have poor or nonexistent credit. The reality, however, is that these loans will leave borrowers worse off and will lead them down the road of recurring, high-cost debt. Such expensive loans will have the natural consequence of placing struggling New Yorkers, particularly those on fixed and low incomes, in financial jeopardy.

New York's usury laws already provide the best protection against unaffordable loans. The Legislature has resisted all prior attempts to carve out exceptions to the interest rate limits. The Governor, Attorney General, and Department of Financial Services have acted aggressively to keep high-interest-rate loan products out of our state. There is no reason for the Legislature to consider allowing a special exception that would allow loans of more than double the current allowable rate.

This bill embodies a program that exists in California, and the proponents portray it as a success there. New York, however, is completely different. Because California permits payday loans that can have an interest rate of over 400%, any loan with a lower interest rate will look like a better alternative. In New York, where payday and payday-like loans are illegal because of our usury laws that cap interest rates at 25%, a loan with a 45% interest rate is simply a predatory product.

New York already has many community-based institutions that currently offer small-dollar loans. These lenders, including CDFIs (Community Development Financial Institutions), make responsibly underwritten loans in economically distressed communities that are often underserved by traditional financial institutions. Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

New York is seen as a national leader in protecting residents against high-cost financial products. It is one of 15 states where payday loans are effectively illegal because of state usury laws. In the current national political setting, it is more important than ever for the Legislature to stand strong against any attempts to weaken our usury laws and to protect New Yorkers from high-cost loans.

For the above reasons, MFY oppose this legislation.

*For more information, please contact: Carolyn E. Coffey at 212-417-3701 or ccoffey@mfy.org
or Ariana Lindermayer at 212-417-3742 or alindermayer@mfy.org.*



New Covenant Dominion Federal Credit Union

1 185 Boston Road * 3601 Eastchester Road
Bronx, NY
Tel. 718-328-3930 Fax. 718-328-3270
www.newcovenantcreditunion.org

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 COVENANT DOMINION FEDERAL CREDIT UNION strongly opposes this legislation.

***Please contact RACHEL MACARTHY, 718-328-6072, EXT 119 OR
RMACARTHY@NEWCOVENANTCREDITUNION.ORG with any questions.***



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"

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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:"

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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.



NEW YORKERS FOR RESPONSIBLE LENDING

MEMORANDUM IN OPPOSITION

May 23, 2017

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

TITLE OF BILL: Credit Creation Pilot Program Act

STATEMENT OF SUPPORT: New Yorkers for Responsible Lending (“NYRL”) strongly opposes A.6511/ S.5771 because it would drive a hole through New York’s usury laws and open the door to high-cost loans for our residents.

NYRL is a statewide coalition established in 2000 to promote access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL’s over 160 organizational members include community financial institutions, community based organizations, labor and affordable housing groups, legal services organizations, advocates for senior citizens and community reinvestment, fair lending and consumer advocacy groups.

This bill would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York’s civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

The “pilot program” is being promoted as a solution for people who have poor or nonexistent credit. The reality, however, is that these loans will leave borrowers worse off and will lead them down the road of recurring, high-cost debt. Such expensive loans will have the natural consequence of placing struggling New Yorkers, particularly those on fixed and low incomes, in financial jeopardy.

New York’s usury laws already provide the best protection against unaffordable loans. The Legislature has resisted all prior attempts to carve out exceptions to the interest rate limits. The Governor, Attorney General, and Department of Financial Services have acted aggressively to keep high-interest-rate loan products out of our state. There is no reason for the Legislature to consider allowing a special exception that would allow loans of more than double the current allowable rate.

This bill embodies a program that exists in California, and the proponents portray it as a success there. New York, however, is completely different. Because California permits payday loans that can have an interest rate of over 400%, any loan with a lower interest rate will look like a better

alternative. In New York, where payday and payday-like loans are illegal because of our usury laws, a loan with a 45% interest rate is simply a predatory product.

New York already has many community-based institutions that currently offer small-dollar loans. These lenders, including CDFIs (Community Development Financial Institutions), make responsibly underwritten loans in economically distressed communities that are often underserved by traditional financial institutions. Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

New York is seen as a national leader in protecting residents against high-cost financial products. It is one of 15 states where payday loans are effectively illegal because of state usury laws. In the current national political setting, it is more important than ever for the Legislature to stand strong against any attempts to weaken our usury laws and to protect New Yorkers from high-cost loans.

For the above reasons, NYRL strongly opposes this legislation and all attempts to undermine New York's strong usury laws.

*For more information, please contact:
Ariana Lindermayer at 212-417-3742, alindermayer@mfy.org*

The Honorable Jesse Hamilton, NYS Senate Banks Chairman
The Honorable Joseph Morelle, NYS Assembly Majority Leader

Dear Senator Hamilton and Assemblyman Morelle:

It has come to the New York State Council of Churches' attention that the New York Legislature is considering a proposal for a pilot program (A.6511 / S.5711) that would create an exception to New York's criminal usury law, among other things. We received notice from our colleagues at the Florida Council of Churches that a bill to create a virtually identical pilot program in Florida failed in its recently concluded 2017 legislative session (SB 872/HB 595) and also failed last year in the Florida 2016 session (SB 1696/HB 1425).

As the New York State Council of Churches, we were disturbed to learn that the proponents of the New York bills, as a way to garner support from the New York Assembly and Senate, have described Florida groups as supportive of this legislation when nothing could be further from the truth. Indeed, a multitude of organizations in Florida, including Florida Alliance for Consumer Protection, Latino Leadership Florida, Jacksonville Legal Aid Society, and the Florida Council of Churches actively opposed this proposal when it came before the Florida legislature this year. They opposed the legislation because of the serious concerns they had regarding the costs of the proposed loans and insufficient safeguards in the bill to ensure their affordability. Our colleagues at the Florida Council of Churches and the many groups with whom they partner, are not aware of any groups supporting the pilot program that failed in the Florida legislature.

New York State is fortunate to have strong usury laws that keep predatory payday lending out of the state. Indeed, many groups in Florida are fighting hard to win similar consumer protections in Florida. Based on Florida's direct experience with payday lenders, they caution New York against weakening its strong usury laws -- which are recognized as the best line of defense against predatory payday lending.

The New York State Council of Churches urges that (A.6511 / S.5771) be defeated.

Sincerely,

Peter Cook
Executive Director

The Reverend Peter Cook
Executive Director
New York State Council of Churches
1580 Central Avenue
Albany, New York
12205



WESTERN NEW YORK AREA LABOR FEDERATION, AFL-CIO

2495 Main St. Suite 440, Buffalo, NY 14214 • 716-852-0375 (Voice) • 716-855-1802 (Fax)

Labor Councils: Buffalo, Cattaraugus/Allegany, Dunkirk, Jamestown, Niagara/Orleans



MEMO OF OPPOSITION A.6511 (Morelle), S.5771 (Hamilton) Credit Creation Pilot Program Act

Tuesday, May 30th, 2017

The Western New York Area Labor Federation, AFL-CIO A.6511/S.5771 opposes this bill because it would drive a hole through New York's usury laws and open the door to high-cost loans for our residents.

Our Labor Federation consists of the 5 Central Labor Councils: the Buffalo Labor Council representing Erie County, the Niagara/Orleans Labor Council representing all of Niagara County, and the western part of Orleans County, the Dunkirk, Jamestown, and Cattaraugus/Allegany Labor council representing those two Counties in the Southern Tier. The total representation of the union members in these five councils are over 140,000 members from all walks of life.

This bill, the "Credit Creation Pilot Program Act," would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York's civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

The "pilot program" is being promoted as a solution for people who have poor or nonexistent credit. The reality, however, is that these loans will leave borrowers worse off and will lead them down the road of recurring, high-cost debt. Such expensive loans will have the natural consequence of placing many people we represent in Western New York in financial jeopardy.

New York's usury laws already provide the best protection against unaffordable loans. The Legislature has resisted all prior attempts to carve out exceptions to the interest rate limits. The Governor, Attorney General, and Department of Financial Services have acted aggressively to keep high-interest-rate loan products out of our state. The strong usury cap serves as one of the strongest consumer safe guards that protects our members from predatory and extractive lending. There is no reason for the Legislature to consider allowing a special exception that would allow loans of more than double the current allowable rate.

This bill embodies a program that exists in California, and the proponents portray it as a success there. New York, however, is completely different. Because California permits payday loans that can have an interest rate of over 400%, any loan with a lower interest rate will look like a better alternative. In New York, where payday and payday-like loans are illegal because of our usury laws, a loan with a 45% interest rate is simply a predatory product.

New York already has many community-based institutions that currently offer small-dollar loans. These lenders, including CDFIs (Community Development Financial Institutions), make responsibly underwritten loans in economically distressed communities that are often underserved by traditional financial institutions. Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

New York should focus on ensuring that all hard working New Yorkers can earn a living wage rather than promoting programs that expose wage earning New Yorkers to predatory credit. Program such as the one proposed in A.6511/S.5771 will target many of the members we represent, trapping them in a cycle of debt that will ultimately place them in financial jeopardy for decades. The pilot program is not an opportunity but rather a trap that will take hard earned income away from hard working Western New Yorkers. Rather than allowing predatory credit let's keep strong consumer protections and ensure that hard working New Yorkers are paid a fair wage.

New York is seen as a national leader in protecting residents against high-cost financial products. It is one of 15 states where payday loans are effectively illegal because of state usury laws. In the current national political setting, it is more important than ever for the Legislature to stand strong against any attempts to weaken our usury laws and to protect New Yorkers from high-cost loans.

For the above reasons, we strongly oppose this legislation.

Please Contact Richard Lipsitz by email at richardlipsitz2@gmail.com or by phone (716) 852-0375 with any questions.

WESTERN NEW YORK LAW CENTER, INC.

237 Main Street, Suite 1130, Buffalo, New York 14203

Thomas Keily

(716) 855-0203, ext. 109

tkeily@wnylc.com

MEMO OF OPPOSITION
A.6511 (Morelle), S.5771 (Hamilton)
Credit Creation Pilot Program Act

Monday, May 22nd, 2017

The Western New York Law Center opposes A.6511/S.5771 because it would drive a hole through New York's usury laws and open the door to high-cost loans for our residents.

The Western New York Law Center is a non-profit legal services organization that serves low-income New Yorkers who face foreclosure and other consumer related legal matters. In addition to our legal representation the Western New York Law Center we advocate for issues that directly impact the Western New Yorkers we represent. Through our legal representation we see first hand how high interest, predatory loans destroy low-income families and strip wealth out of communities across Western New York. Opening the door to such high interest, usurious loans would strip communities of wealth and further place individuals away from building wealth.

This bill, the "Credit Creation Pilot Program Act," would authorize small-dollar loans (between \$300 and \$5,000) at an interest rate up to 30%, plus a 5% origination fee with a \$75 cap. Factoring in the origination fee, **the interest rate would be as high as 45%**. In contrast, New York's civil and criminal usury laws, which have been in place for over a century, cap interest rates significantly lower at **16% and 25%**, respectively.

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Rather than opening the door to high-cost loans in a state that does not now permit them, the Legislature should explore and pursue ways to expand the capacity of responsible lending institutions to build credit for New Yorkers with safe financial products that comply with New York's usury laws.

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For the above reasons, we strongly oppose this legislation.

Please Contact Thomas Keily by email at tkeily@wnylc.com or by phone (716) 855-0203 ext. 109 with any questions.



Westchester Residential Opportunities
470 Mamaroneck Ave Suite 410, White Plains, NY 10605
914-428-4507 914-428-9455 Fax www.wroinc.org

MEMORANDUM IN OPPOSITION TO

S.5771 / A.6511

May 22, 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:"

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Since 1968, Westchester Residential Opportunities, Inc. (WRO) has championed the expansion of non-discriminatory housing opportunities in our region for low- and moderate-income households, minorities, senior citizens and persons with disabilities, including the psychiatrically disabled. WRO is a HUD approved Housing Counseling Agency, a licensed real estate broker and a United Way agency. All of our housing services for consumers are free, and are funded by government grants, private contributions and corporate support.

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.

An article in the PRNewswire indicated that they cater to the lower-income customer. That is an immediate red flag:

SAN FRANCISCO, June 2, 2016 /PRNewswire/ -- INSIKT, Inc., **a leader in providing credit-building loans to lower-income customers**, welcomes the Consumer Financial Protection Bureau’s planned release of rules restricting practices that leave many borrowers unable to repay their loans.

"We support the efforts of the CFPB to regulate payday lending and other small loans to prevent abusive practices that too often trap borrowers in inescapable debt," said INSIKT's founder and chief executive, James Gutierrez.

"Some in the industry will suggest that strong borrower protections and high consumer standards will prevent all lending to hard-pressed borrowers in need of a crucial or emergency loan," Gutierrez said. "We disagree. Every day, we are proving that sound small-dollar lending and strong consumer protections can and should go hand in hand."

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, Westchester Residential Opportunities Inc., strongly opposes this legislation.

Please contact Veronica Raphael, Director of Foreclosure Prevention (914) 428-4507 with any questions.