

OPPOSITION TO S.6985-A/A.9634-A

Community Financial Services Access and Modernization Act

From: New York groups
Date: June 7, 2016
Re: Community Financial Services Access and Modernization Act
(S.6985-A/A.9634-A)

Attached please find 25 memoranda of opposition to S.6985-A/A.9634-A from New York groups, including members of New Yorkers for Responsible Lending, and from the Center for Responsible Lending, a national non-profit organization dedicated to fighting predatory lending.

These groups in opposition include the following community-based organizations, community development financial institutions, homeless advocacy groups, affordable housing and foreclosure prevention groups, legal services and labor organizations, and community reinvestment, fair lending, and consumer advocacy groups:

Brooklyn Legal Services*⁺
CAMBA Legal Services*
Center for Responsible Lending
Central New York Citizens in Action*
Community Capital New York*
Consumers Union*
District Council 37, AFSCME, AFL-CIO*
Local 372, DC 37 AFSCME, Education Employees
Local 420, DC 37 AFSCME, Healthcare Workers
Local 1549, DC 37 AFSCME, Clerical-Administrative Employees
District Council 1707 AFSCME*
Empire Justice Center*
Geneseo Co-op Federal Credit Union*
IMPACCT Brooklyn*
Legal Services NYC*⁺
Long Island Housing Services*
Lower East Side People's Federal Credit Union*
MFY Legal Services*
New Economy Project*
New York Public Interest Research Group (NYPIRG)*
Picture the Homeless
Teamsters Local 237*
University Neighborhood Housing Program*
Westchester Residential Opportunities, Inc.*
Western New York Law Center*

* NYRL member

⁺ Statement of concern

MEMORANDUM CONCERNING S.6985-A/A.9634-A

June 6, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF CONCERNS: Brooklyn Legal Services ("BLS") submits this memorandum concerning S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state.

BLS is a preeminent provider of innovative civil legal services, serving low-income Brooklyn residents since 1968. Through a broad range of legal advocacy and education, BLS works to advance the interests of our clients and create systemic changes that strengthen and protect Brooklyn communities. In 2015 alone, BLS handled nearly 10,000 cases, helping more than 23,000 people with a wide variety of legal issues in such areas as housing, consumer, employment, unemployment, income tax, pension, family and domestic violence, disability and HIV, education, and foreclosure law. Our staff has a long and productive history of working collaboratively with community-based organizations in the neighborhoods we serve, thereby increasing our impact and providing comprehensive services to Brooklyn communities.

BLS is concerned that the communities we serve will be tangibly harmed if New York check cashers are permitted to make loans, whether to small businesses or to individual borrowers.

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Hon. Betty E. Staton, President
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Brooklyn Legal Services Memorandum Concerning S.6985-A/A.9634-A

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For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. BLS is concerned that this bill is nothing more than an effort to pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color by taking the first step of authorizing lending by check cashing institutions.

BLS is very concerned about the impact on low-income New Yorkers if New York State were to reclassify check cashers as "financial services providers" permitted to make loans. The events of the last several years and their continuing impact on New York's most vulnerable communities are an ongoing reminder about the devastation that unrestricted lending can unleash on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – important requirements that are not addressed in the legislation under consideration.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. We note that civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in comments on that proposal dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill advanced by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators

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Brooklyn Legal Services Memorandum Concerning S.6985-A/A.9634-A

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have in the past shut down through effective enforcement actions. We are concerned of the adverse impact such practices could have on the vulnerable, under-banked populations we serve.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A could undermine the progress New York has made in combating the impact of payday lending on our low-income communities, and we believe it is likely an attempt to pave the way for high-cost, predatory loan products that are harmful to small businesses and individual borrowers in New York, and which are known to strip wealth from low-income communities and communities of color. At greatest risk are the low-income seniors and other New Yorkers in financial distress who form the client base of BLS.

Notably the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans.

While we recognize the need to expand financial services for New York's under-banked communities, we are wary of opening the door to unregulated check cashers to the lending business, and would encourage exploration of ways to strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Among the options that could encourage responsible, non-predatory small dollar lending the Legislature might consider:

- Supporting CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encouraging banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convening banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.



CAMBA

Legal Services

MEMORANDUM IN OPPOSITION

May 31, 2016

BILL NUMBER: A.9634 / S.6985

SPONSORS: Senator Savino / Assemblymember Rodriguez

TITLE OF BILL: Enacts the "community financial services access and modernization act"

STATEMENT OF OPPOSITION: This bill would erode longstanding protections in New York against abusive loans. This bill would open the door to costly loan products that have proven harmful to working people, low-income citizens, and seniors. This bill is yet another attempt by the check cashing industry – and other financial interests – to market high-interest loans in violation of our state’s usury laws.

The bill would exempt check cashers from Article 9 of the Banking Law, which regulates licensed lenders, and would allow them to make loans under an amended Article 9-A that applies to check cashers. Article 9-A, however, is completely devoid of any parameters on the making of loans. It would allow check cashers to provide “conduit services”, defined as activities “in collaboration with a bank, credit union, or other financial institution authorized to do business in this state or by federal law.” “Conduit services” is undefined in any current state or federal law, and it is unclear what it would mean in the context of this proposed legislation. Certainly it raises the specter of payday loans, “rent-a-bank” operations and other schemes designed to gut New York’s usury laws.

Although this bill is termed a “modernization” act, its emphasis and impact are not about modernization. This proposal would greatly expand the permissible services that check cashers provided in their communities. Check cashing businesses have never been in the business of making loans or issuing credit. Properly making loans is a serious and complicated function that goes well beyond cashing checks, selling money orders, and processing bill payments. Making loans to consumers requires proper underwriting, which includes, evaluating the ability to repay as well as considering income and expenses. This is patently absent from this bill.

New York already has a well-established financial services industry. Community credit unions and certain banks already offer small-dollar, short term loans – the same products that the check cashers want to provide – but at a much lower interest rate! In fact, CAMBA, as an employer, has connected to a CDFI Bank to offer short term loans to employees as an alternative to illegal payday loans. Supporting and expanding the availability of credit unions and banks will help



CAMBA

Legal Services

low-income citizens, working New Yorkers and senior citizens, and it will benefit communities. Opening the door for check cashers to provide usurious loans is not, in fact it is harmful.

New York is one of 14 states – including our Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts – that ban usurious payday or payday-like loans. The Legislature should not allow such predatory products to gain a foothold here, under this bill or any other scheme.

CAMBA urges you to oppose this legislation, and preserve the integrity of our State's usury and lending laws.



June 7, 2016

Memorandum of Opposition – A.9634-A/Rodriguez - S.6985-A/Savino **The “Community Financial Services Access and Modernization Act”**

The Center for Responsible Lending opposes A.9634-A/S.6985-A, a bill that would allow New York Check Cashers to make small business and commercial loans directly, as well as partner with out-of-state banks to make loans. We believe that this bill will open the door to the type of high-cost, predatory loans that New Yorkers have long fought to keep out of the state.

A long-standing tenet of responsible lending is that a lender ensures that a borrower, whether an individual or a business, has the ability to repay the loan, by looking at both income and expenses. Check cashers do not have experience doing this type of underwriting, nor would they be required to do so under the proposed legislation. In fact, nothing in this bill requires that check cashers underwrite these loans in any meaningful way.

The lack of underwriting and consumer protections factored into the bill is particularly concerning given the fact that the small business loans contemplated under A.9634-A/S.6985-A are simply predatory consumer loans in disguise. Many of these loans are offered to individuals and are secured by personal property. Data from a recent survey of alternative small business lending firms by the California Department of Business Oversight found that interest rates reach as high as 52%, more than double New York’s criminal usury rate.

Increasingly, payday lenders are offering and making small business loans, to the same individuals they target for high-cost predatory, payday loans. Payday lenders like MoneyTree, CashCall, Money Mart, and Enova offer small business loans at very expensive rates, some reaching as high 200% APR. Just like payday loans, these small business loans will trap borrowers in unaffordable debt for extended periods of time.

The “Community Financial Services Access and Modernization Act” would also allow check cashers to engage in “conduit services,” loosely defined as “any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent.” This language would allow check cashers to collaborate with out-of-state banks in an attempt to skirt New York’s strong usury statute. According to recent news reports, the New York Department of Financial Services is investigating this very practice of non-bank companies partnering with out-of-state banks to make loans in New York that exceed state interest rate limits. A.9634-A/S.6985-A authorizes the exact practice that has been squarely rejected by federal and state



regulators, including New York's banking regulator, and would undo years of hard work that has kept New Yorkers safe from predatory payday lending.

In fact, former Superintendent of Financial Services Ben Lawskey has called this bill a “wolf in sheep’s clothing.” In a recent interview with NY 1, Lawskey said, “I suspect this is not really about small businesses. This is about getting in the door and getting the legislature to pass a bill that allows check cashers to get in the business of lending and the down the road...get back to those consumer loans...get back to those payday loans.”

No state that bans payday lending, as New York does, allows check cashers to make loans. New York should not be the first state to do so. Instead, New York should continue to support safe and responsible lending practices instead of empowering check cashers to make poorly underwritten, predatory loans to entrepreneurs in the Empire state. **The Center for Responsible Lending urges you to oppose this legislation and continue to protect New York’s residents by affirming that all lenders, whether offering consumer or business loans, must comply with the state’s long-standing usury law.**

For more information, contact:

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Central New York Citizens in Action

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MEMORANDUM IN OPPOSITION TO

S.6985-A/A.9634-A

June 6, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: The Central New York Citizens in Action, Inc., a public interest advocacy organization located in Utica, New York, opposes S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. The Central New York Citizens in Action, Inc. opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as “financial services providers” that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers’ ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State’s supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services’ Superintendent Benjamin Lawsky recognized that check cashers are “entities not regulated for...safe and sound lending operations.”

The bill would also permit check cashers to provide “conduit services” as well as “any other financial service permitted in this state.” “Conduit services,” however, are undefined in any current federal or state lending laws. The bill loosely defines “conduit services” as “any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent.” This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in “rent-a-bank” schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its

Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject S.6985-A/A.9634-A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

The Central New York Citizens in Action, Inc. urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.

Respectfully submitted,



John J. Furman
President



June 6, 2016

Re: S6985/A9634, Community Financial Services Access and Modernization Act of 2016

To Whom It May Concern:

I am writing to express my concern about S6985/A9634, also known as the Community Financial Services Access and Modernization Act of 2016. As the Executive Director of a not for profit organization committed to the financial well-being of low income and disadvantaged populations, I have opposed the check cashers many attempts to break into lending in New York State over the years. We have been proud to have come from a state whose usury caps have discouraged the kind of lending practiced by this industry we see in other states.

There is not, as the check cashing industry alleges, a lack of access to capital for small businesses in New York. In addition to having a wealth of traditional institutions to choose from, New York is home to 73 Community Development Financial Institutions like Community Capital New York, covering every county in the State, that provide small business loans to those businesses that are not yet "bankable." Using a personalized approach, CDFI loan funds, credit unions and banks make loans to solid, sound businesses while requiring lower credit scores, less collateral, fewer years in business and a host of other accommodations that make it possible for business owners on the margins of traditional finance to secure loans – responsible, fairly priced loans.

In fact, in 2012, the latest year for which we have data, CDFIs made over 20,000 loans to businesses that were not bankable. What we will not do, is make a loan to someone who will not benefit from it. A loan is debt and debt is a burden. CDFI's careful, personalized underwriting (and the myriad of support services we offer) assures us that the loans we make to these more fragile borrowers will serve to help the business owner grow their business, increase their financial well-being, employ more people and revitalize the neighborhoods in which they are located. And we are able to do this charging interest rates below the civil usury cap.

We have been proud to have come from a state whose usury caps have discouraged the kind of predatory lending practiced by this industry we see in other states (payday loans). And while the current bill does not ask for an adjustment to the usury cap, we believe it is a foot in the door. Consider: the big players (Chase, Wells Fargo, Citibank, Bank of America, etc) do not lend to the customers we serve and that the check cashers are targeting. They have clearly made the determination not to serve this market, because *it is not profitable* for them to do so (as many of us can attest – that is why so many of us are not for profit lenders). If the big banks, which already have vast sophisticated systems for underwriting and loan servicing cannot

make a profit under the usury caps, why would we think the check cashers, who currently have no underwriting or loan servicing capacity think they can do so? Our concern is that see this bill paving the way to relief from the rate caps a few years down the road when the check cashers come back to complain that they cannot make any money without higher interest rates.

The industry has admitted that their revenues are down and that they see this legislation as a way to boost sales, but we see no reason for the State to prop up a struggling industry at the expense of the community of locally owned, independent businesses who line our main streets, support our little leagues and volunteer firefighting and EMT corps.

This industry does not have the experience or expertise to underwrite these loans to ensure that the loan benefits the borrower. Debt is a burden and unless care is taken to ensure not just that the loan can be repaid, but that it actually improves the businesses profitability and sustainability, these loans will lead to loss. And please remember that losses are not just losses for the lender – they are losses for the borrower and for the community. Broken dreams, financial stress, lost jobs and vacant store fronts harm all of us. The way to avoid that is through careful, fair, responsible lending. This industry, the check cashers, do not have a reputation for being those people.

Please do not support this unnecessary bill that would strip wealth from those who can least afford it. Protect the small business owners of New York who are the backbone of our economy. I know I speak for my colleagues in among Community Development Financial Institutions when I encourage you to urge any of your constituents who are in need of capital at any time to contact us. We will genuinely work to truly understand whether a loan will leave them better off - and to find them the resources they need to address their challenges if it will not.

Thank you for taking the time to listen. I am happy to discuss this with you in person, should you want to understand more about the work Community Development lenders do or why we object to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Jacobs". The signature is fluid and cursive, with a large initial "K" and "J".

Kim Jacobs
Executive Director

Memorandum of Opposition – A.9634-A/S.6985-A

The “Community Financial Services Access and Modernization Act,” legislation to permit New York check cashers to make small business and commercial loans

Consumers Union opposes A.9634-A/S.6985-A, legislation that would permit New York check cashers to make small business and commercial loans. The bill would allow check cashers, who have no experience as lenders, to make loans to businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers’ lending authority, the bill would potentially pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York’s longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry’s latest attempt to convince the New York State Legislature to grant check cashers the power to make loans

Fundamentally, New York State should not reclassify check cashers as “financial services providers” that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting, and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated activity. Sound underwriting calls for careful evaluation of borrowers’ ability to repay, considering income and expenses – which is not even addressed in this bill.

The only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject A.9634-A/S.6985-A, and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. **Consumers Union strongly urges you to oppose this legislation, and to preserve the safety and soundness of our banking system, and the integrity of our state’s lending and usury laws.**

For more information, contact:

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LEGISLATIVE MEMO:

WE OPPOSE



A.9634A/Rodriguez - S.6985A/Savino Community Financial Services Access and Modernization Act

Political Action and
Legislation Department

Wanda Williams
Director

This bill would erode longstanding protections in New York against abusive loans. Although the bill as now amended would limit check cashers to making “business and commercial loans,” this legislation would nonetheless open the door to costly loan products that have proven harmful to the residents and communities of New York. This bill is yet another attempt by the check cashing industry – and other financial interests – to market high-interest and risky loans that will not be beneficial to our state.

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The bill would for the first time allow check cashers to be licensed under Article 9 of the Banking Law, which regulates licensed lenders. However, the bill is completely devoid of any parameters on the making of loans. This proposal would greatly expand the permissible services of check cashers beyond those that they have provided in communities. Check cashing businesses have never been in the business of making loans or issuing credit. Properly making loans is a serious and complicated function that goes well beyond cashing checks, selling money orders and processing bill payments. Making loans to small businesses is even more complicated than issuing credit to individuals, who typically have a steady, verifiable income. Properly underwriting small business loans entails reviewing books and records, expense sheets, business plans, and other information, all of which is absent in this bill.

Further, the bill would allow check cashers to provide “conduit services”, defined as any activity “in collaboration with a state or federally chartered bank or credit union” permitted to be offered by a licensed lender. “Conduit services” is undefined in any current state or federal law, and it is unclear what it would mean in the context of this proposed legislation.

Our State already has a well-established financial services industry. Banks, credit unions, and community development financial institutions offer loans to small businesses, and provide loans that are properly underwritten and that will help communities, not harm them. If we have learned anything from the financial meltdown, it is that making loans without ensuring that borrowers will be able to repay the monies borrowed, is a recipe for disaster. The legislator should not rush headlong into allowing check cashers to enter the lending business.

On behalf of the 121,000 members of District Council 37 and our 50,000 retirees, we urge your opposition to this legislation.

May 31, 2016



New York City Board of Education Employees
125 Barclay Street, Room 650, New York, N.Y. 10007 - (212)815-1372 - www.local372.org
Affiliated with District Council 37, American Federation of State, County & Municipal Employees, AFL-CIO

Exemption of Check Cashers

A.9634a (Rodriguez)/S. 6985a (Savino)

This bill would erode longstanding protections in New York against abusive loans. This bill would open the door to costly loan products that have proven harmful to working people, low-income citizens, and seniors. This bill is yet another attempt by the check cashing industry * and other financial interests to market high-interest loans in violation of our state*s usury laws.

Local 372 represents close to 23,000 New York City the Department of Education and NYPD Employees. Our members are dedicated and hardworking support staff in New York City schools. They are School Crossing Guards, School Aides, Health Aides, Substance Abuse Prevention and Intervention Specialists (SAPIS), Paraprofessionals, Parent Coordinators, Annual School Lunch Employees and Hourly School Lunch Employees. These are some of the lowest paid municipal workers; making less than \$15 an hour and some are working less than 5 hours a day. Many of our members and their families have been targeted or victimized by unscrupulous lenders who as a matter of doing business have sold products that are advanced as beneficial but have proven to be extremely detrimental.

As the economy attempts to rebound from the collapse of the credit and housing crisis that crippled many of the communities our members live in * by disproportionately impacting them with defaults on loans, foreclosures and lock in jumbo loans. We say no to any products that unduly adversely impact our members.

On behalf of the 23,000 members of Local 372, we urge your opposition to this legislation.

In Solidarity

Shaun D. Francois I.
President

UN D. FRANCOIS I
DENT

ALD NESBIT
VICE PRESIDENT

IA DELAURA
VICE PRESIDENT

ID KEYE
TARY TREASURER

ILEY OLIVER
INGO, SECRETARY

DRA FOWLER
ANT AT ARMS

ENA ROSADO
ANT AT ARMS

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LOCAL 420, Healthcare Workers

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Exemption of Check Cashers

A.9634a (Rodriguez)/S. 6985a (Savino)

This bill would erode longstanding protections in New York against abusive loans. This bill would open the door to costly loan products that have proven harmful to working people, low-income citizens, and seniors. This bill is yet another attempt by the check cashing industry – and other financial interests to market high-interest loans in violation of our state’s usury laws.

Municipal Hospital Employees Union Local 420 represents over 8,000 workers in the City of New York. Many of our members and their families have been targeted or victimized by unscrupulous lenders who as a matter of doing business have sold products that are advanced as beneficial but have proven to be extremely detrimental.

Many of our members are rebuilding from the collapse of the credit and housing crisis that crippled many of the communities that our members live in. There are predators that are negatively impacting them with defaults on loans, foreclosures and lock in jumbo loans. We say no to any products that unduly adversely impact our members.

The bill would exempt check cashers from Article 9 of the Banking Law, which regulates licensed lenders, and would allow them to make loans under an amended Article 9-A that applies to check cashers. Article 9-A, however, is completely devoid of any parameters on the making of loans. It would allow check cashers to provide “conduit services”, defined as activities “in collaboration with a bank, credit union, or other financial institution authorized to do business in this state or by federal law.” “Conduit services” is undefined in any current state or federal law, and it is unclear what it would mean in the context of this proposed legislation. Certainly it raises the specter of payday loans, “rent-a-bank” operations and other schemes designed to gut New York’s usury laws.

Although this bill is largely billed as a “modernization” act, it is not really about modernization. This proposal would greatly expand the permissible services of check cashers beyond those that they have provided in communities. Check cashing businesses

have never been in the business of making loans or issuing credit. Properly making loans is a serious and complicated function that goes well beyond cashing checks, selling money orders and processing bill payments. Making loans to consumers carries with it the responsibility of proper underwriting – that is, evaluating the ability to repay, considering income and expenses – which is absent in this bill.

Our State already has a well-established financial services industry. Community credit unions and some banks already offer small-dollar, short term loans – the same products that the check cashers want to be able to make -- but at a much lower interest rate! Supporting and expanding the availability of credit unions and banks will help low-income citizens, working New Yorkers and senior citizens, and will benefit communities. Opening the door for check cashers to provide usurious loans is not!

New York is one of 14 states – including our Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts – that ban usurious payday or payday-like loans. The Legislature should not allow such predatory products to gain a foothold here, under this bill or any other scheme.

On behalf of the 8,372 members of Local 420, we urge your opposition to this legislation.

April 29, 2016

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NYC Clerical-Administrative Employees Local 1549, District Council 37, AFSCME, AFL-CIO

Exemption of Check Cashers

A.9634a (Rodriguez)/S. 6985a (Savino)

This bill would erode longstanding protections in New York against abusive loans. This bill would open the door to costly loan products that have proven harmful to working people, low-income citizens, and seniors. This bill is yet another attempt by the check cashing industry – and other financial interests to market high-interest loans in violation of our state’s usury laws.

NYC Clerical-Administrative Employees Local 1549 represents over 15,000 workers in the City of New York. Many of our members and their families have been targeted or victimized by unscrupulous lenders who as a matter of doing business have sold products that are advanced as beneficial but have proven to be extremely detrimental.

Many of our members are rebuilding from the collapse of the credit and housing crisis that crippled many of the communities that our members live in. There are predators that are negatively impacting them with defaults on loans, foreclosures and lock in jumbo loans. We say no to any products that unduly adversely impact our members.

The bill would exempt check cashers from Article 9 of the Banking Law, which regulates licensed lenders, and would allow them to make loans under an amended Article 9-A that applies to check cashers. Article 9-A, however, is completely devoid of any parameters on the making of loans. It would allow check cashers to provide “conduit services”, defined as activities “in collaboration with a bank, credit union, or other financial institution authorized to do business in this state or by federal law.” “Conduit services” is undefined in any current state or federal law, and it is unclear what it would mean in the context of this proposed legislation. Certainly it raises the specter of payday loans, “rent-a-bank” operations and other schemes designed to gut New York’s usury laws.

Although this bill is largely billed as a “modernization” act, it is not really about modernization. This proposal would greatly expand the permissible services of check cashers beyond those that they have provided in communities. Check cashing businesses have never been in the business of making loans or issuing credit. Properly making loans is a serious and complicated function that goes well beyond cashing checks, selling money

orders and processing bill payments. Making loans to consumers carries with it the responsibility of proper underwriting – that is, evaluating the ability to repay, considering income and expenses – which is absent in this bill.

Our State already has a well-established financial services industry. Community credit unions and some banks already offer small-dollar, short term loans – the same products that the check cashers want to be able to make -- but at a much lower interest rate! Supporting and expanding the availability of credit unions and banks will help low-income citizens, working New Yorkers and senior citizens, and will benefit communities. Opening the door for check cashers to provide usurious loans is not!

New York is one of 14 states – including our Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts – that ban usurious payday or payday-like loans. The Legislature should not allow such predatory products to gain a foothold here, under this bill or any other scheme.

On behalf of the 15,000 members of Local 1549, we urge your opposition to this legislation.

April 29, 2016



Empire Justice Center

119 Washington Ave. ♦ Albany, NY 12210

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Memorandum in OPPOSITION

Community Financial Services Access and Modernization Act A.9634A(Rodriguez)/S.6985A(Savino)

This bill would license and permit check cashers to become lenders outside of New York's traditional and regulated banking system, and without ensuring the safety and soundness of those loans.

Empire Justice Center strongly opposes A.9634A/S.6985A. Originally drafted to allow check cashers to make loans generally, the bill has been amended to limit lending to small business and commercial loans. The amendment came presumably in response to opposition raised regarding check cashers making personal loans without the same level of protections that exist when traditional financial institutions lend money, as well as the fear regarding the check cashing industry's persistent attempts over the last decade to bring payday lending to New York State. New York's small businesses, however, are also individual consumers doing their best to run a business and need the same level of protections from unregulated and potentially predatory lending practices.

Check cashers have no experience as lenders and exist separate and apart from New York's highly regulated and structured banking system. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill could pave the way for the high-cost, predatory loans that New York has long successfully fought to keep out of our state.

Furthermore, the bill would give the check cashing industry an unfair advantage over banks, credit unions and Community Development Financial Institutions (CDFI's). The liquid asset requirement set forth for check cashers in law, and unchanged in this bill even though their powers would increase significantly, remains \$10,000 which is far less than what is required of banks. It is also not clear whether check cashers would be subjected to the same heightened level of federal and/or state regulation and examination that exists for traditional institutions.

Even more importantly, banks, credit unions, and CDFI's current provide safe, sound and fair loans to small businesses. The Community Loan Fund of the Capital Region (CLFCR), for example, has been in existence for thirty-one years, serving eleven counties and has a long history, solid experience and an excellent track record of providing responsible small business and commercial loans. CLFCR has loaned almost \$5 million to small businesses over the years with an average loan size amount of \$22,530 in 2015. The typical interest rate on these loans is 8.00%. Not-for-profit in nature, the CLFCR would not be on a level playing field with a for-profit check cashing industry and could very well be

overrun by an industry in the game to make money rather than to provide low-cost responsible products. That would not be good for the community banks, credit unions and CDFI's of our state, and certainly would not be good for the small businesses that are so vital to the New York's economy.

The State Legislature should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans is a serious and complicated function. Sound underwriting calls for careful evaluation of the borrowers' ability to repay, considering income and expenses – which is not addressed in this bill at all.

We strongly urge the New York State Legislature to reject A.9634A/S.6985A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner, including:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

The Empire Justice Center strongly opposes A.9634A/S.6985A.

This memorandum was prepared by:
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June 2, 2016



Genesee Co-op

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MEMORANDUM IN OPPOSITION TO

S.6985-A/A.9634-A

June 6, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: Genesee Co-op FCU opposes S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. Genesee Co-op FCU opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to

make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject S.6985-A/A.9634-A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to



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small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

Genesee Co-op FCU urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.

Sincerely,

Melissa Marquez
Chief Executive Officer



**IMPACCT
BROOKLYN**

Strengthening communities through housing,
economic opportunity and advocacy

June 6, 2016

IMPACCT BROOKLYN OPPOSES

LEGISLATIVE MEMORANDUM NO: 103-2016

CONTACT: Bonita Dowling (718) 522-2613

S.6895-A/A.9634-A

IN SENATE, BILL NUMBER 6895-A. INTRODUCED BY SENATORS SAVINO, AVELLA & CARLUCCI. IN ASSEMBLY, BILL NUMBER 9634-A. INTRODUCED BY M. OF A. RODRIGUEZ, ARROYO, BENEDETTO, PICHARDO, PERRY, LINARES, CRESPO, HYNDMAN, RIVERA, DILAN, TENNEY, SEPULVEDA, JEAN-PIERRE, WEPRIN, ABBATE & FARRELL.

AN ACT to amend the banking in relation to the “community financial services access and modernization act of 2016”...

SUMMARY OF PROVISIONS:

This legislation would amend the Banking Law to authorize check cashing outlets to make “business or commercial” loans without requiring the use of formal underwriting standards applicable to other lenders. Loans made to individuals could not be for “personal, family, household or investment purposes.” Check cashers would also be authorized to offer “conduit services,” such as assistance in preparing and submitting loan documents, making bill payments, and accessing customer accounts, in conjunction with chartered banks and credit unions operating inside or outside New York. These financial products and services could be offered at fixed locations or through mobile vehicle units.

STATEMENT OF OPPOSITION:

Under this bill check cashers would be allowed for the first time to team up with lenders and make loans to individuals and business entities. Check cashers could also charge for furnishing various “conduit services,” including services that resemble traditional banking, but presumably would be furnished separately or in conjunction with other products and services.

This legislation, amended substantially just days ago, proposes a quantum increase in the range of financial products and services check cashers could offer. A significant concern is that the check cashers would be put in the position of making loans connected to insured depository institutions without the necessity of using traditional underwriting criteria. The bill also would allow charging for “conduit services” in conjunction with a loan, which could well drive the effective interest rate well above the state’s usury cap. Another substantial concern is that the legislation would allow lending and other financial transactions to take place outside of the traditional confines of a bank or credit union, including in mobile units—trappings that help focus the borrower’s attention on the significance and details of the transaction.

Moreover, while the legislation’s terms forbid lending for “personal, family, household or investment purposes,” this may be easily circumvented and be virtually impossible to enforce. This legislation, advanced by interests that for years have attempted to secure the authority to make usurious payday loans to consumers, presents too many risks to consumers, small businesses and our financial system to justify support.

IMPACCT BROOKLYN urges your opposition to this legislation.

IMPACCT Brooklyn (Main Office)
1000 Dean Street, Suite 420 · Brooklyn New York 11238 · 718-522-2613 x 110
www.impactbrooklyn.org | pacc@impactbk.org



MEMORANDUM CONCERNING

S.6985-A/A.9634-A

June 6, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF CONCERNS: Legal Services NYC ("LSNYC") submits this memorandum concerning S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state.

LSNYC is Legal Services NYC (LSNYC) is the largest provider of free civil legal services in the nation and a leading advocacy organization for low-income New Yorkers, who are especially vulnerable to predatory and irresponsible forms of consumer lending. LSNYC is concerned that the communities we serve will be tangibly harmed if New York check cashers are permitted to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make.

Legal Services NYC
Legal Support Unit

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Raun J. Rasmussen, Executive Director

Michael D. Young, Board Chair



LSNYC is concerned that this bill is nothing more than an effort to pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color by taking the first step of authorizing lending by check cashing institutions.

LSNYC is very concerned about the impact on low-income New Yorkers if New York State were to reclassify check cashers as "financial services providers" permitted to make loans. The events of the last several years and their continuing impact on New York's most vulnerable communities are an ongoing reminder about the devastation that unrestricted lending can unleash on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – important requirements that are not addressed in the legislation under consideration.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. We note that civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in comments on that proposal dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill advanced by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions. We are concerned of the adverse impact such practices could have on the vulnerable, under-banked populations we serve.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A could undermine the progress New York has made in combating the impact of payday lending on our low-income communities, and we believe it is likely an attempt to pave the way for high-cost, predatory loan products that are harmful to small businesses and individual borrowers in New York, and which are known to strip wealth from low-income communities and communities of color. At greatest risk are the low-income seniors and other New Yorkers in financial distress who form the client base of LSNYC.

Notably the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans.

While we recognize the need to expand financial services for New York's under-banked communities, we are wary of opening the door to unregulated check cashers to the lending business, and would encourage exploration of ways to strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Among the options that could encourage responsible, non-predatory small dollar lending the Legislature might consider:

- Supporting CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encouraging banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convening banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.



MEMO IN OPPOSITION

A.9634A/Rodriguez - S.6985A/Savino Community Financial Services Access and Modernization Act

The Lower East Side People's Federal Credit Union opposes A.9634A/S.6985A, which would eliminate New York's longstanding ban on lending by check cashers, and exempt check cashers from New York's current laws and regulations governing licensed lenders. The bill would also allow check cashers to provide so-called "conduit services", imposing a fee for operating as a "go-between" between their customers and a regulated bank or credit union; this type of service is currently available free or at very low cost from non-profit organizations in the under banked communities the check cashers claim to serve.

We are concerned that this bill is yet another attempt by the check cashing industry – and other financial interests – to market high-interest loans in violation of our state's usury laws. The bill would allow check cashers to make "commercial and business" loans, yet there is no definition as to what constitutes a commercial or business loan. Nor is there any language regarding underwriting guidelines.

If these loans are underwritten as personal loans for business purposes, they are essentially payday loans without the paycheck. For example, a bodega owner borrows \$25,000 for inventory, which gets purchased the following week. The loan is expected to be paid back from the proceeds of the sale of the inventory. However, the bodega owner can't pay back the loan because she needs the income to pay the rent, her employee, etc. So she borrows some more. Just like a payday loan, this becomes a never-ending cycle which only stops at bankruptcy.

As a low-income designated, certified Community Development Financial Institution (CDFI), LES People's FCU has been making loans to small businesses in our communities for 30 years. Unlike the check cashers, we are a regulated financial institution which follows strict guidelines in underwriting. Also unlike the check cashers, we are not for profit, and as a result we are most concerned with our members' ability to afford the loans we make. Therefore we look at all aspects of a member's business before determining the amount and term of a loan. **We do not believe that the check cashers have the expertise to underwrite commercial and business loans in a manner that is safe for the borrower.**



It is this lack of expertise which we believe has led to the inclusion of the “conduit services” section of the bill. The check cashers are proposing, and the bill permits, that they assist their customers in preparing applications for loans from banks and credit unions. In this way, they are collecting a fee for technical assistance that is already available free of charge in underbanked communities in New York. For example, CDFI loan funds and credit unions all provide this service, as well as the City’s Small Business Solution Centers and numerous non-profit technical assistance providers. In addition, the Small Business Administration offers technical assistance to low income entrepreneurs at many City and State university campuses. **The provision of “conduit services” is in fact nothing short of a way for the check cashers to charge a fee for something low income people can receive for free.**

Our State already has a well-established financial services industry. Supporting and expanding the availability of credit unions and banks will help low-income citizens, working New Yorkers, and senior citizens, and will benefit communities. Opening the door for check cashers to provide loans does not!

New York is one of 14 states – including our Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts – that ban usurious payday or payday-like loans. The Legislature should not allow such predatory products to gain a foothold here, under this bill or any other scheme.

On behalf of the 8,500 members of LES People’s FCU, living and working in all five boroughs of New York City, we urge you to oppose this legislation.

June 1, 2016

MEMORANDUM IN OPPOSITION TO

S.6985-A/A.9634-A

June 3, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: Long Island Housing Services, Inc. opposes S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. Long Island Housing Services, Inc. opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound

underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject S.6985-A/A.9634-A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the

business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

Long Island Housing Services, Inc. urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.

Submitted by:

**Michelle Santantonio, Executive Director
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**LEGAL
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INCORPORATED

OPPOSE
**An Act to amend the Banking Law,
in relation to the
“Community Financial Services Access and
Modernization Act of 2016”**

June 1, 2016

A.9634A -- Rodriguez

S.6985A -- Savino

MFY Legal Services, Inc. (“MFY”) strongly opposes the introduction of A.9634A/S.6985A, which would erode New York’s longstanding protections against abusive loans by authorizing check cashers to make “business or commercial loans” without formal underwriting standards applicable to other lenders.

MFY envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for over 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 10,000 New Yorkers each year. Specifically, MFY’s Consumer Rights Project and Low-Income Bankruptcy Project provide advice, counsel, and representation to low-income New Yorkers, some of whom are small business owners, on a range of consumer problems, including predatory loan products.

This legislation is yet another attempt by the check cashing industry – and other financial interests – to market high-interest and risky loans that have proven harmful to the residents and communities of New York. It would, for the first time, allow check cashers to be licensed under Article 9 of the Banking Law, which regulates licensed lenders. The bill, however, lacks any parameters on the making of loans.

Such parameters are particularly important considering how greatly this proposal would expand the permissible services of check cashers beyond cashing checks, selling money orders and processing bill payments. Check cashing businesses have never been in the business of making loans or issuing credit, and properly doing so to small businesses is even more complicated than issuing credit to

individuals, who typically have a steady, verifiable income. Underwriting small business loans entails reviewing books and records, expense sheets, business plans, and other information, details of which are absent in this bill.

Furthermore, the bill would allow check cashers to provide “conduit services,” defined as any activity “in collaboration with a state or federally chartered bank or credit union” permitted to be offered by a licensed lender. “Conduit services” is not further defined in any current state or federal law. While it is unclear what this term means in the context of the proposed legislation, these services will likely drive a loan’s effective interest rate well above the state’s usury cap.

We are also concerned by the very real prospect that this legislation, billed as providing products for businesses, would open the door to high-cost and predatory usurious small-dollar loans. For years the check-cashing industry has pressed for legislation that would effectively exempt them from New York’s longstanding civil and criminal usury caps, which bank payday loans. This bill is the industry’s latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state’s low-income communities and communities of color.

New York State already has a well-established financial services industry. Banks, credit unions, and community development financial institutions (CDFIs) offer loans to small businesses, and provide loans that are properly underwritten and that help communities, not harm them. If we have learned anything from the financial meltdown, it is that making loans without proper underwriting is a recipe for disaster. The Legislature should not rush headlong into allowing check cashers to enter the lending business. Instead, the Legislature should support CDFIs that already provide affordable small-dollar loans and whose mission is to serve underserved communities and lower-income New Yorkers; encourage banks that participate in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC’s best practices recommendations; and should convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

MFY Legal Services urges your opposition to A.9634A/S.6985A.

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



MEMORANDUM IN OPPOSITION TO

A.9634-A/S.6985-A

May 31, 2016

BILL NUMBER: A.9634-A/S.6985-A

SPONSORS: Assemblymember Rodriguez / Senator Savino

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: New Economy Project opposes A.9634-A/S.6985-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. New Economy Project opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-

cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. A.9634-A/S.6985-A flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth

from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject A.9634-A/S.6985-A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

New Economy Project urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.



NYPIRG OPPOSES

LEGISLATIVE MEMORANDUM NO: 103-2016

CONTACT: Russ Haven PHONE: 518 436-0876

S.6895-A/A.9634-A

IN SENATE, BILL NUMBER 6895-A. INTRODUCED BY SENATORS SAVINO, AVELLA & CARLUCCI.

IN ASSEMBLY, BILL NUMBER 9634-A. INTRODUCED BY M. OF A. RODRIGUEZ, ARROYO, BENEDETTO, PICHARDO, PERRY, LINARES, CRESPO, HYNDMAN, RIVERA, DILAN, TENNEY, SEPULVEDA, JEAN-PIERRE, WEPRIN, ABBATE & FARRELL.

AN ACT to amend the banking in relation to the “community financial services access and modernization act of 2016” . . .

SUMMARY OF PROVISIONS:

This legislation would amend the Banking Law to authorize check cashing outlets to make “business or commercial” loans without requiring the use of formal underwriting standards applicable to other lenders. Loans made to individuals could not be for “personal, family, household or investment purposes.” Check cashers would also be authorized to offer “conduit services,” such as assistance in preparing and submitting loan documents, making bill payments, and accessing customer accounts, in conjunction with chartered banks and credit unions operating inside or outside New York. These financial products and services could be offered at fixed locations or through mobile vehicle units.

STATEMENT OF OPPOSITION:

Under this bill check cashers would be allowed for the first time to team up with lenders and make loans to individuals and business entities. Check cashers could also charge for furnishing various “conduit services,” including services that resemble traditional banking, but presumably would be furnished separately or in conjunction with other products and services.

This legislation, amended substantially just days ago, proposes a quantum increase in the range of financial products and services check cashers could offer. A significant concern is that the check cashers would be put in the position of making loans connected to insured depository institutions without the necessity of using traditional underwriting criteria. The bill also would allow charging for “conduit services” in conjunction with a loan, which could well drive the effective interest rate well above the state’s usury cap. Another substantial concern is that the legislation would allow lending and other financial transactions to take place outside of the traditional confines of a bank or credit union, including in mobile units—trappings that help focus the borrower’s attention on the significance and details of the transaction.

Moreover, while the legislation’s terms forbid lending for “personal, family, household or investment purposes,” this may be easily circumvented and be virtually impossible to enforce. This legislation, advanced by interests that for years have attempted to secure the authority to make usurious payday loans to consumers, presents too many risks to consumers, small businesses and our financial system to justify support.

NYPIRG urges your opposition to this legislation.



PICTURE THE HOMELESS
ORGANIZING FOR DIGNITY AND RESPECT

MEMORANDUM IN OPPOSITION TO

A.9634/S.6985

May 31, 2016

BILL NUMBER: A.9634/S.6985

SPONSORS: Assemblymember Rodriguez / Senator Savino

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: Picture the Homeless opposes A.9634/S.6985, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. Picture the Homeless opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and

small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as activities "in collaboration with a bank, credit union, or other financial institution or licensee authorized to do business in this state or by federal law." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. A.9634/S.6985 flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject A.9634/S.6985 and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner.

For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

Picture the Homeless urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.



CITY EMPLOYEES UNION LOCAL 237
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A.9634A/Rodriguez - S.6985A/Savino
Community Financial Services Access
and Modernization Act

This bill would erode longstanding protections in New York against abusive loans. Although the bill as now amended would limit check cashers to making “business and commercial loans,” this legislation would nonetheless open the door to costly loan products that have proven harmful to the residents and communities of New York. This bill is yet another attempt by the check cashing industry – and other financial interests – to market high-interest and risky loans that will not be beneficial to our state.

The bill would for the first time allow check cashers to be licensed under Article 9 of the Banking Law, which regulates licensed lenders. However, the bill is completely devoid of any parameters on the making of loans. This proposal would greatly expand the permissible services of check cashers beyond those that they have provided in communities. Check cashing businesses have never been in the business of making loans or issuing credit. Properly making loans is a serious and complicated function that goes well beyond cashing checks, selling money orders and processing bill payments. Making loans to small businesses is even more complicated than issuing credit to individuals, who typically have a steady, verifiable income. Properly underwriting small business loans entails reviewing books and records, expense sheets, business plans, and other information, all of which is absent in this bill.

Further, the bill would allow check cashers to provide “conduit services”, defined as any activity “in collaboration with a state or federally chartered bank or credit union” permitted to be offered by a licensed lender. “Conduit services” is undefined in any current state or federal law, and it is unclear what it would mean in the context of this proposed legislation.

Our State already has a well-established financial services industry. Banks, credit unions, and community development financial institutions offer loans to small businesses, and provide loans that are properly underwritten and that will help communities, not harm them. If we have learned anything from the financial meltdown, it is that making loans without ensuring that borrowers will be able to repay the monies borrowed, is a recipe for disaster. The legislature should not rush headlong into allowing check cashers to enter the lending business.

On behalf of the 24,000 members of Teamsters Local 237 City Employees Union and our 10,000 retirees, we urge your opposition to this legislation.

JUNE 3, 2016



MEMORANDUM IN OPPOSITION

5/19/2016

BILL NUMBER: A.9634/S.6985

SPONSORS: Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: University Neighborhood Housing Program (UNHP) opposes A.9634/S.6985, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. UNHP opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

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Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as activities "in collaboration with a bank, credit union, or other financial institution or licensee authorized to do business in this state or by federal law." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. A.9634/S.6985 flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject A.9634/S.6985 and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;

- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

UNHP urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.

MEMORANDUM IN OPPOSITION TO

S.6985-A/A.9634-A

June 3, 2016

BILL NUMBER: S.6985-A/A.9634-A

SPONSORS: Senator Savino/Assemblymember Rodriguez

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: WESTCHESTER RESIDENTIAL OPPORTUNITIES INC. opposes S.6985-A/A.9634-A, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make loans to New Yorkers and small businesses in New York, without ensuring the safety and soundness of those loans. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has long successfully fought to keep out of our state. WESTCHESTER RESIDENTIAL OPPORTUNITIES INC. opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

For years, the check-cashing industry has been trying to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. When that effort proved unsuccessful, they pressed for legislation that masked the true cost of the loans they sought to make. This bill is the industry's latest attempt to convince the New York State Legislature to grant check cashers the power to make loans, and pave the way for legalization of high-cost, payday or payday-like loans that target our state's low-income communities and communities of color.

Fundamentally, New York State should not reclassify check cashers as "financial services providers" that can make loans. Legislators need only look back to the recent financial meltdown to understand the devastating consequences that unrestricted lending can have on our communities. If we have learned anything from the financial meltdown, it is that lenders must be required to engage in sound underwriting and that effective regulation and enforcement are crucial. Making loans to individuals and small businesses is a serious and complicated function. Sound underwriting calls for careful evaluation of borrowers' ability to repay, considering income and expenses – which is not even addressed in this bill.

In 2011, a bill was introduced in the New York State Legislature that, like this bill, would have permitted New York check cashers to make loans. Civil rights, community, fair lending, and community-based financial institutions voiced strong opposition to the 2011 bill, urging that check cashers should not be

permitted to make loans in New York as a matter of sound public policy. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ...This legislation would for the first time allow check cashers to make loans, even though the State's supervision is not set up to ensure the safety and soundness of such lending.

In an April 29, 2013 letter addressing a similar bill pushed by the check-cashing industry, former Department of Financial Services' Superintendent Benjamin Lawsky recognized that check cashers are "entities not regulated for...safe and sound lending operations."

The bill would also permit check cashers to provide "conduit services" as well as "any other financial service permitted in this state." "Conduit services," however, are undefined in any current federal or state lending laws. The bill loosely defines "conduit services" as "any activity permitted to be offered by a licensee under this article to its customers in collaboration with a state or federally chartered bank or credit union subject to the approval of the superintendent." This broad, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in "rent-a-bank" schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

Thanks to vigorous enforcement of our state consumer protection laws, New Yorkers are no longer plagued by internet and other predatory payday lenders. S.6985-A/A.9634-A flies in the face of these critical public enforcement actions. This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, and to strip wealth from low-income communities and communities of color. At greatest risk are low-income seniors and other New Yorkers in financial distress.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans – and there are 14 of them – allows check cashers to make loans, and New York should not be the first to do so. New York should stand with its Northeast neighbors New Jersey, Pennsylvania, Connecticut and Massachusetts in continuing to ban payday loans, and in declining to extend the capacity to check cashers to make loans.

The Legislature should reject S.6985-A/A.9634-A and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that already provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

WESTCHESTER RESIDENTIAL OPPORTUNITIES INC. urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.

THANK YOU,
VERONICA RAPHAEL
DIRECTOR OF FORECLOSURE PREVENTION
WESTCHESTER RESIDENTIAL OPPORTUNITIES INC.

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May 31st, 2016

BILL NUMBER: A.9634A/S.6985A

SPONSORS: Assemblymember Rodriguez / Senator Savino

TITLE OF BILL: "Community Financial Services Access and Modernization Act"

STATEMENT OF OPPOSITION: The Western New York Law Center opposes A.9634A/S.6985A, as amended, which would permit New York check cashers to make loans. The bill would allow check cashers, which have no experience as lenders, to make small businesses and commercial loans in New York, without ensuring the safety and soundness of those loans. The legislation does not establish regulatory oversight for safety and soundness of the loans issued by check cashers. By allowing an unprecedented and unwarranted expansion of check cashers' authority, the bill would pave the way for high-cost, predatory loans that New York has successfully fought to keep out of our state. The Western New York Law Center opposes allowing New York check cashers to make loans, whether to small businesses or to individual borrowers.

Regularly, the check-cashing industry has tried to push open the door to usurious small-dollar loans in New York. They have pressed for legislation that would effectively exempt them from New York's longstanding civil and criminal usury caps, which ban payday and other types of predatory, high-cost loans. This bill is the check-cashing industry's latest attempt to convince the New York State Legislature to grant them the power to make loans, and pave the way for legalization of high-cost loans. New York has fought to keep any form of predatory lending from entering the state; this legislation would erase necessary consumer protections that stop predatory lenders from targeting New York's low-income communities and communities of color with high cost loan products.

May the recent financial meltdown be a firm reminder that a loosening of lending standards and reasonable oversight can have a devastating effect on our communities. Effective regulation and enforcement of sound underwriting practices is crucial in ensuring that institutions engaging in lending activities are acting in the best interest of borrowers and the communities' financial stability. The proposed legislation does not address how check cashers and other potential lenders will examine the safety and soundness of their loans.

While this bill is largely presented as a "modernization" act, in reality it fails to modernize the financial system. By allowing check cashers the ability to lend, the financial system is not modernized but rather money is introduced into the market in a reckless manner that subjects consumers and business owners to unreasonable fees and high interest rates.

The proposed legislation would greatly expand the permissible services of check cashers beyond those that they have the capacity to safely provide in communities. Check cashing businesses have never been in the business of making loans or issuing credit. Making loans to consumers carries with it the responsibility of proper underwriting – that is, evaluating the ability to repay, considering income and expenses – which is absent in this bill.

The bill would also permit check cashers to provide “conduit services” as well as “any other financial service permitted in this state.” The bill loosely defines “conduit services” as activities “in collaboration with a bank, credit union, or other financial institution or licensee authorized to do business in this state or by federal law.” This vague, unprecedented language could be construed as permitting check cashers to collaborate with out-of-state banks in “rent-a-bank” schemes designed to evade our usury laws – the very schemes that New York and federal regulators have in the past shut down through effective enforcement actions.

In 2011, a bill was introduced in the New York State Legislature that would have permitted New York check cashers to make loans. In the same manner as the proposed legislation, this bill would have introduced unsound lending practices into New York communities. As the New York City Department of Consumer Affairs stated in a memorandum opposing the bill, dated May 19, 2011:

Communities need access to *responsible* lending, not loans made without regard to ability to repay, which tend to trap borrowers in a cycle of debt. [C]heck cashers are not regulated or supervised with safety and soundness or responsible lending in mind. ... This legislation would for the first time allow check cashers to make loans, even though the State’s supervision is not set up to ensure the safety and soundness of such lending.

In response to 2013 legislation pushed by the check cashing industry, former Department of Financial Services’ Superintendent Benjamin Lawsky recognized in and April 29, 2013 letter that check cashers are “entities not regulated for...safe and sound lending operations.”

This bill should be seen for what it is: an attempt to bring high-cost, predatory loan products to small businesses and individual borrowers in New York, effectively stripping wealth from low-income communities and communities of color. If passed, the legislation would effectively weaken New Yorker’s established consumer protections and reintroduce consumers and business owners to internet and other predatory payday lenders.

It is worth noting that the only states where check cashers are allowed to make loans are states that also permit payday loans. No state that bans payday loans allows check cashers to make loans, and New York should not be the first to do so.

The Legislature should reject A.9634/S.6985 and instead affirmatively strengthen and promote Community Development Financial Institutions (CDFIs) and other responsible lenders that are in the business of meeting community and small business credit needs in a safe, non-discriminatory manner. For example, in 2012, the most recent year for which data are available, CDFIs made more than 20,000 loans to small businesses in New York – responsibly meeting the need of small businesses unable to obtain loans from mainstream financial institutions.

Specifically, the Legislature should:

- Support CDFIs that provide affordable small-dollar loans, and whose mission is to serve underserved communities and lower-income New Yorkers;
- Encourage banks participating in the NYS Banking Development District program to make small-dollar loans in accordance with the FDIC's best practices recommendations;
- Convene banks, credit unions, loan funds, nonprofits, and community groups to design and implement responsible small business and small-dollar loan programs.

The Western New York Law Center urges you to oppose this legislation, and preserve the integrity of our state's lending and usury laws.