

# STATE OF NEW YORK

3262--A

2019-2020 Regular Sessions

## IN ASSEMBLY

January 29, 2019

Introduced by M. of A. ZEBROWSKI, LUPARDO, MOSLEY, GOTTFRIED, BLAKE, M. G. MILLER, COOK, STECK, FAHY, JEAN-PIERRE, WALLACE, JONES, RICHARDSON, WALSH, BRABENEC, MONTESANO, RA, BYRNE, CARROLL, STIRPE, HUNTER, LALOR, SALKA, B. MILLER -- Multi-Sponsored by -- M. of A. ABBATE, BARRETT, DICKENS, ENGLEBRIGHT, THIELE -- read once and referred to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the banking law, in relation to allowing credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations; to direct the department of financial services to conduct a study and issue a report concerning the impact of allowing certain financial institutions to accept local government public deposits; and providing for the repeal of certain provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph d of subdivision 1 of section 10 of the general  
2 municipal law, as amended by chapter 623 of the laws of 1998, is amended  
3 to read as follows:

4 d. "Bank" shall mean a bank as defined by the banking law or a  
5 national banking association located and authorized to do business in  
6 New York; a savings bank as defined by the banking law, a savings and  
7 loan association as defined by the banking law or a federal savings  
8 association located and authorized to do business in New York which has  
9 its principal office in a location described in paragraph (a) of subdi-  
10 vision two of section two hundred thirty-seven of the banking law, or a  
11 branch office in a location described in paragraph (b) of subdivision  
12 two of section two hundred thirty-seven of the banking law.

13 § 2. Section 10 of the general municipal law is amended by adding a  
14 new subdivision 5 to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD02132-04-9

1 5. In addition to the financial institutions authorized to accept  
2 public deposits in subdivision two of this section, credit unions, as  
3 defined by the banking law or a federal credit union located and author-  
4 ized to do business in New York which has its principal office in a  
5 location described in paragraph (a) of subdivision thirty-eight of  
6 section four hundred fifty-four of the banking law, or a branch office  
7 in a location described in paragraph (b) of subdivision thirty-eight of  
8 section four hundred fifty-four of the banking law, may accept public  
9 deposits by a local government subject to the limitations set forth  
10 herein. For the calendar year beginning January first, two thousand  
11 twenty, the governing board of a local government may designate one or  
12 more credit unions, for the deposit of public funds in an amount not to  
13 exceed five hundred thousand dollars in each institution. For the  
14 calendar year beginning January first, two thousand twenty-one, the  
15 governing board of a local government may designate one or more credit  
16 unions for the deposit of public funds in an amount not to exceed one  
17 million dollars in each institution. For the calendar year beginning  
18 January first, two thousand twenty-two, the governing board of a local  
19 government may designate one or more credit unions for the deposit of  
20 public funds in an amount not to exceed two million dollars in each  
21 institution. For the calendar year beginning January first, two thou-  
22 sand twenty-three, the governing board of a local government may desig-  
23 nate one or more credit unions for the deposit of public funds in an  
24 amount not to exceed three million dollars in each institution. For the  
25 calendar year beginning January first, two thousand twenty-four, the  
26 governing board of a local government may designate one or more credit  
27 unions for the deposit of public funds in an amount not to exceed four  
28 million dollars in each institution. For the calendar year beginning  
29 January first, two thousand twenty-five, the governing board of a local  
30 government may designate one or more credit unions for the deposit of  
31 public funds in an amount not to exceed five million dollars in each  
32 institution. For the purposes of this section, a deposit limit shall  
33 mean the maximum amount of all funds of a local government in an insti-  
34 tution based on a daily account balance excluding any accrued interest.

35 § 3. Section 454 of the banking law is amended by adding a new subdi-  
36 vision 38 to read as follows:

37 38. (a) To accept deposits for credit to a local government, as  
38 defined in paragraph a of subdivision one of section ten of the general  
39 municipal law, at its principal office where such credit union maintains  
40 its principal office within the jurisdiction of such local government.

41 (b) To accept deposits for credit to a local government, as defined in  
42 paragraph a of subdivision one of section ten of the general municipal  
43 law, at its branch office where such credit union maintains a branch  
44 office within the jurisdiction of such local government.

45 § 4. The banking law is amended by adding a new section 454-a to read  
46 as follows:

47 § 454-a. Deposits of public money with credit unions; security. A  
48 credit union may accept deposits of public money subject to the limita-  
49 tions provided in subdivision thirty-eight of section four hundred  
50 fifty-four of this article. Such credit union shall pledge assets or  
51 furnish other security satisfactory in form and amount to the depositor,  
52 for the repayment of monies held in the name of such depositor, when  
53 required to be secured by applicable law, decree or regulation.

54 § 5. The banking law is amended by adding a new section 454-b to read  
55 as follows:

1 § 454-b. Community investment by credit union; condition of accepting  
2 municipal deposits. 1. If the average daily balance of the municipal  
3 funds on deposit at the credit union for the preceding year is in excess  
4 of three hundred thousand dollars, the chief financial officer, or the  
5 senior official in the credit union with responsibility for performing  
6 the functions of a chief financial officer of a credit union that choos-  
7 es to accept municipal deposits pursuant to section ten of the general  
8 municipal law, shall, consistent with safety and soundness, transmit to  
9 the department by December thirty-first each year, a written certifi-  
10 cation, in a form specified by the superintendent and posted on the  
11 department's website, that the credit union has invested into the commu-  
12 nity, pursuant to this section, a sum equal to the average daily  
13 balance, multiplied by a factor of .0035, provided, however, in no  
14 event, shall a credit union be required to contribute a sum in excess of  
15 one hundred thousand dollars in any one year.

16 2. The community investment described in subdivision one of this  
17 section shall be used to support any of the following purposes, as  
18 determined by the credit union, in any community where such credit union  
19 has authority to provide services, provided the credit union shall  
20 prioritize low-income communities when choosing where to invest:

- 21 (a) minority and women-owned business enterprises in the community; or  
22 (b) affordable housing (including multifamily rental housing) for low-  
23 and moderate-income individuals in the community; or  
24 (c) community services targeted to low- and moderate-income individ-  
25 uals in the community; or  
26 (d) activities that revitalize or stabilize the community including  
27 low- or moderate-income geographies, or designated disaster areas; or  
28 (e) financial literacy.

29 3. For purposes of the community investment pursuant to this this  
30 section, field of membership restrictions shall not apply.

31 § 6. Subdivision 2 of section 237 of the banking law, as amended by  
32 chapter 360 of the laws of 1984, is amended to read as follows:

33 ~~2. [No savings bank shall accept any deposit for credit to any municipi-~~  
34 ~~pal corporation.]~~ (a) A savings bank which maintains its principal  
35 office within the jurisdiction of a local government, as defined in  
36 paragraph a of subdivision one of section ten of the general municipal  
37 law, may accept deposits at such principal office for credit to such  
38 local government.

39 (b) A savings bank which maintains a branch office within the juris-  
40 isdiction of a local government, as defined in paragraph a of subdivision  
41 one of section ten of the general municipal law, may accept deposits at  
42 such branch office for credit to such local government.

43 § 7. Section 234 of the banking law is amended by adding a new subdivi-  
44 sion 27 to read as follows:

45 27. Pursuant to subdivision two of section two hundred thirty-seven of  
46 this article, to pledge assets or furnish other security satisfactory in  
47 form and amount to the depositor, for the repayment of monies held in  
48 the name of such depositor, when required to be secured by applicable  
49 law, decree or regulation and to exercise the powers contained in  
50 section ninety-six-b of this chapter.

51 § 8. Section 383 of the banking law is amended by adding a new subdivi-  
52 sion 18 to read as follows:

53 18. Pursuant to subdivision two of section two hundred thirty-seven of  
54 this chapter, to pledge assets or furnish other security satisfactory in  
55 form and amount to the depositor, for the repayment of monies held in  
56 the name of such depositor, when required to be secured by applicable

1 law, decree or regulation and to exercise the powers contained in  
2 section ninety-six-b of this chapter.

3 § 9. 1. The department of financial services is hereby authorized and  
4 directed to study and issue a public report with recommendations,  
5 concerning the impact of allowing credit unions, savings banks, savings  
6 and loan associations or federal savings associations to accept local  
7 government public deposits. This report shall be prepared in consulta-  
8 tion with stakeholders, including local governments, banks, credit  
9 unions, savings banks, savings and loan associations and federal savings  
10 associations.

11 2. On or before January 1, 2025, the superintendent of financial  
12 services shall submit to the governor, the temporary president of the  
13 senate, the speaker of the assembly, the chair of the senate standing  
14 committee on banks, and the chair of the assembly standing committee on  
15 banks, a written report detailing the findings and recommendations on  
16 the department's study performed in accordance with subdivision one of  
17 this section. The superintendent shall use reasonable efforts to identi-  
18 fy any impacts by expanding the financial institutions eligible to  
19 accept municipal deposits and shall include the following information in  
20 the report:

21 (a) An analysis of deposits held in banks including the size of the  
22 bank's assets, location of banks, type of bank charter, changes in the  
23 amount of commercial bank held deposits from the effective date of the  
24 chapter of the laws of 2019 that added this section and overall impact  
25 on banking industry, in particular small community banks.

26 (b) The growth of municipal deposits held in credit unions, savings  
27 banks, savings and loan associations or federal savings associations  
28 after the effective date of the chapter of the laws of 2019 that added  
29 this section.

30 § 10. Section 86 of the banking law, as amended by chapter 274 of the  
31 laws of 2007, is amended to read as follows:

32 § 86. Eligibility. 1. For the purposes of this article, the term  
33 "community bank institution" shall mean any state or federally chartered  
34 banking institution and shall include any bank, trust company, savings  
35 bank or savings and loan association with less than ten billion dollars  
36 in assets that is headquartered in this state and whose predominant  
37 retail and commercial banking operations serve residents and businesses  
38 of this state, as determined by the superintendent in his or her sole  
39 discretion and pursuant to such rules and regulations as the superinten-  
40 dent deems necessary to implement and administer these provisions.

41 2. To be eligible to receive deposits, or to renew existing deposits  
42 under this program[~~, a bank, trust company, savings bank or savings and~~  
43 ~~loan association: (a) must be chartered under the provisions of this~~  
44 ~~chapter and (b)] a community bank institution:~~

45 (a) must have a current CRA rating of satisfactory or better. The  
46 superintendent shall, if requested by the state comptroller or the  
47 commissioner of taxation and finance, confirm whether a particular bank-  
48 ing institution meets the criteria specified in this section; and

49 (b) meet any additional criteria established by the comptroller and  
50 the commissioner of taxation and finance to determine eligibility for  
51 participation in the program. Such criteria may include an institution's  
52 loan to deposit ratio, its record of small business lending, and the  
53 impact such deposits would have on an area's economic activity.

54 ~~[2. A federal bank, trust company, savings bank or savings and loan~~  
55 ~~association may also be eligible to receive deposits, or to renew exist-~~  
56 ~~ing deposits, under this program if: (a) its principal office is located~~

~~1 in this state; (b) it has a current CRA rating of satisfactory or  
2 better; and (c) it meets any additional criteria established by the  
3 comptroller and the commissioner of taxation and finance to determine  
4 eligibility for participation in the program. Such criteria may include  
5 an institution's loan to deposit ratio, its record of small business  
6 lending, and the impact such deposits would have on an area's economic  
7 activity.]~~

8 § 11. Section 87 of the banking law, as amended by chapter 274 of the  
9 laws of 2007, subdivision 2 as amended by chapter 495 of the laws of  
10 2013, is amended to read as follows:

11 § 87. Deposits. 1. Notwithstanding any provisions of law to the  
12 contrary, the state comptroller and the commissioner of taxation and  
13 finance shall, for the purposes of administering moneys in accordance  
14 with the provisions of sections ninety-eight-a and one hundred five of  
15 the state finance law, give consideration to depositing funds into those  
16 community banking institutions which are deemed eligible to receive  
17 deposits pursuant to section eighty-six of this article.

18 2. The maximum amount of funds which the state comptroller and the  
19 commissioner of taxation and finance may deposit under this program  
20 shall not exceed [~~two~~] three hundred [~~fifty~~] million dollars each. [~~The  
21 maximum amount of funds on deposit at a community banking institution  
22 shall not exceed twenty million dollars.~~]

23 3. Notwithstanding any provision of law to the contrary, any deposits  
24 made pursuant to this article shall be made at rates, and for such peri-  
25 ods of time, as may be agreed to by the state comptroller or the commis-  
26 sioner of taxation and finance and the eligible community banking insti-  
27 tution.

28 4. Any deposits made pursuant to this article may be secured by an  
29 irrevocable letter of credit issued by a federal home loan bank.

30 5. The comptroller and the commissioner of taxation and finance shall  
31 annually submit a joint report to the governor, the temporary president  
32 of the senate, the speaker of the assembly, the chair of the senate  
33 finance committee, the chair of the assembly ways and means committee,  
34 the chair of the senate standing committee on banks, and the chair of  
35 the assembly standing committee on banks on the efficacy of the communi-  
36 ty bank deposit program, including information on the number of quali-  
37 fied community banking institutions, the number of community banking  
38 institutions which have received deposits, the size of each participat-  
39 ing community bank, the number and amount of such deposits and the  
40 percentage of total state funds deposited in such institutions under  
41 this program.

42 § 12. No municipal deposits held in credit unions by local governments  
43 on December 31, 2025 shall be required to be withdrawn upon the expira-  
44 tion of this act.

45 § 13. This act shall take effect on the ninetieth day after it shall  
46 have become a law; provided that sections two, three, four, five and  
47 nine of this act shall expire and be deemed repealed December 31, 2025.