RE: AN ACT to amend the banking law, in relation to the banking development districts program.

MEMORANDUM IN OPPOSITION

A.6949 (Zebrowski)/S.5308 Hamilton

This memorandum is submitted in opposition to the subject legislation by the Independent Bankers Association of New York State, Inc. ("IBANYS") which exclusively represents the interests of community banks located throughout New York State.

This bill would amend the Banking Law to include credit unions and federal credit unions as participants in the Banking Development District ("BDD") program. The purpose of the banking development district, which was established in 1997, is to provide incentives for banks to establish bricks and mortar branches in areas with a demonstrated need for banking services. The incentives with the establishment of a branch include the ability to accept municipal deposits and a real property tax exemption for ten years.

There are a number of sound public policy reasons that militate against the enactment of this legislation. This bill would allow the deposit of taxpayer funds in credit unions, which pay no federal, state or local income taxes, negligible sales taxes and no MTA mobility tax. Municipal and state funds, if used to make loans to credit union members, would not generate any income taxes for the state or federal government from the credit unions. In contrast, loans made by community banks not only bolster the economy but also result in taxes being paid by the bank on the earnings from the loans. This bill would enable credit unions to stick their proverbial nose into the tent of municipal deposits, with an eye toward complete access to municipal and state deposits on an equal footing with taxpayer banks.

This bill would also provide credit unions with a real property tax deduction for the branch. This exemption would enable credit unions to escape full payment on one of the few taxes which they are obligated to pay. At a time when local governments are functioning under a tax cap, it does not make policy sense to provide a real property deduction to a credit union which is not paying other taxes. This objection is further amplified by the fact that the credit unions are created to operate for the benefit of their members. As a consequence, this subsidy from taxpayers would be directed to limited members of the community.

Credit unions continue to seek expansion of their powers without accepting the burdens associated with taxes and additional regulation. This bill would expand the credit unions' marketplace advantages to the significant disadvantage of community banks.

The BDD program was established in 1997 to provide incentives for banks to establish branches where there is a demonstrated need for banking services. Bricks and mortar branches owned by the bank are more costly when compared to internet banking, or the use of leased property to locate branches. The BDD should remain an important program to incentivize the location of branches. In many communities the presence of a main street bank has a great stabilizing impact, particularly on many downtown areas.

Under this bill, banks participating in the BDD program are mandated to offer affordable products and services and to provide financial education services. The application of such broad and undefined standards only to banks participating in the BDD program does not serve as an encouragement for a bank to make the capital investment required to establish a new branch location. Banks do not need any encouragement to establish branches where the economics sustain the branch. This is not the case in a banking development district. The introduction of additional costs to comply with undefined regulatory requirements and uncertainty as to the length of the incentives discourages participation in the program. This situation is particularly true in an environment where the funding incentive for state and municipal deposits is not as compelling.

The current statute already applies a number of criteria to evaluate an application to establish a BDD. There is no evidence that the current requirements are not sufficient. Community banks work to educate their customers on financial issues and offer financial services that the community is able to afford.

This legislation adds regulatory burden, increases cost, and creates investment uncertainty for operation of a branch under the BDD program.

The Community Banking Report by the Department of Financial Services in 2013 stated "Today New York's community banks continue to drive growth throughout the State, touching virtually every major aspect of the economy and significantly affecting the everyday lives of many New Yorkers." This bill negatively impacts community banks and the communities which they serve.

Based on the foregoing, it is respectfully requested that this bill not receive favorable action.