



## ***ILLINOIS LEGISLATION EFFECTIVE IN 2012***

**Public Act 97-0016 (House Bill 219) - - - rear seat passenger seat belts. Amends the Illinois Vehicle Code to mandate seat belt use by back seat passengers; provides exceptions for back seat passengers of authorized emergency vehicles and taxicabs. [effective date: January 1, 2012]**

**Public Act 97-021 (House Bill 141) - - - notice of radon hazard in leased premises. Amends the Illinois Radon Awareness Act to require lessors of real property (dwelling units below the third story above ground level) to notify in writing any potential new lessee of the existence of a radon hazard if the current or prior lessee has notified the lessor in writing of radon test results indicating a radon hazard. If the lessor conducts his/her/its own radon test revealing the existence of a radon hazard, the lessor must disclose the existence of the radon hazard in writing to the current lessee *and* to any potential new lessee; if the lessor undertakes radon hazard mitigation efforts and a subsequent radon test shows that the radon hazard no longer exists, then the lessor is no longer obligated to make the disclosure. Nothing in this legislation exempts financial institution creditors that become lessors through ownership of OREO with tenants. Expressly states that the lessor has no affirmative obligation to conduct radon testing. [effective date: January 1, 2012]**

**Public Act 97-0118 (House Bill 1379) - - -repeal of "Torrens Act." Repeals the Torrens Act regarding registration of lands effective January 1, 2014; the Torrens Act was previously scheduled for repeal on July 1, 2037.**

**[effective date: Although the legislation technically becomes legally effective on January 1, 2012, the legislation expressly specifies that the repeal is not effective until January 1, 2014]**

**Public Act 97-0133 (House Bill 3050) - - - revisions to Illinois Credit Union Act. Amends numerous sections of the Illinois Credit Union Act to reflect the division of authority between the Director of the Division of Financial Institutions and the Secretary of the Illinois**

Department of Financial & Professional Regulation (“IDFPR”). Addresses limitations on out-of-state credit unions operating in Illinois under reciprocity conditions. Specifies processes and time frames relating to civil monetary penalties (i.e., administrative fines) levied by IDFPR against credit unions and the ability of the credit unions to “cure” the violation and thus avoid the monetary sanction. Makes numerous other grammatical, technical or non-substantive revisions. [effective date: January 1, 2012]

Public Act 97-0139 (House Bill 3513) - - - display of customer’s social security number. Amends Illinois’ Consumer Fraud and Deceptive Business Practices Act to prohibit the printing of a customer’s social security number “on the outside of any file associated with the products or services provided.” [effective date: January 1, 2012]

Public Act 97-0147 (Senate Bill 1699) - - -felony classifications for “financial crime.” Amends Section 16H-60 of the Criminal Code to stratify varying felony degrees (e.g., from Class 1 felony to Class X felony) based on the financial amount involved in the specific instances. [effective date: January 1, 2012]

Public Act 97-0219 (Senate Bill 64) - - -“false personation” under Criminal Code. Amends the Criminal Code to broaden the crime of “false personation” to include situations where the wrongdoer falsely represents himself or herself to be a different, actual person in an effort to injure, defraud, or obtain a benefit from another person or entity and where the wrongdoer falsely represents himself or herself to be a representative of another person or an organization and acts in such false capacity with the intent to obtain a benefit, to injure or to defraud a person or entity. Adds a provision clarifying that a false personation violation can be conducted in person or by any means of communication, including Internet or other electronic communication. [effective date: January 1, 2012]

Public Act 97-0231 (Senate Bill 2027) - - - “forgery” under Criminal Code. Amends the Criminal Code’s section covering forgery by broadening the definition to include making a false document or altering a document to make it false when the resulting document is capable of defrauding someone. Also explains that the references to “false document” include a document the contents of which are false in some material way, or that purports to have been made by another at another time, or with different provisions, or by authority of one who in truth did not grant such authority. Forgery violation is a Class 3 felony. [effective date: January 1, 2012]

Public Act 97-0247 (House Bill 1209) - - - lessor’s right to recover rent for time during which eviction judgment is stayed. Amends the Forcible Entry and Detainer Article of Illinois’ Code of Civil Procedure to allow the lessor’s action for possession or ejection to include a request

for the pro rata amount of rent due during any time that a judgment is stayed. The legislation makes no distinction between the original lessor's rights and the rights of a creditor financial institution that may acquire ownership of leased real estate with tenants as OREO. [effective date: January 1, 2012]

Public Act 97-0350 (Senate Bill 3478) - - - revisions to Code of Civil Procedure ("CCP") regarding creditors' rights and revival of judgments. Amends various sections of Illinois' Code of Civil Procedure to specify that a lien obtained by a creditor on personal property through a citation to discover assets survives termination of the citation proceedings and remains a valid lien on the personal property if the judgment against the debtor is revived prior to dormancy. Also will amend the CCP to specify that a judgment lien on real estate must be revived within seven years after its original entry or most recent revival and a new memorandum of judgment must be recorded prior to the judgment and its previously recorded memorandum of judgment becoming dormant. Will also add a new section 12-112.5 to the CCP addressing the procedures applicable to the use of a "charging order" as a remedy, when permitted by statute or case law. Will also amend Section 12-652 of the CCP to clarify that judgments, including foreign judgments filed in this State, shall be treated the same as original Illinois judgments filed with the clerk of the circuit court for all purposes, including enforcement and revival. [effective date: January 1, 2012]

Public Act 97-0427 (Senate Bill 2069) - - - use of private detective agency employee as process server. Amends the Code of Civil Procedure to specify circumstances in which a registered employee of a licensed private detective agency may receive court-appointed authority to act as a process server in counties with populations of less than 2,000,000. [effective date: January 1, 2012]

Public Act 97-0470 (House Bill 1233) - - - landlord obligation to change lock prior to occupation by new tenant. Amends Illinois' Landlord and Tenant Act to require landlords in Cook County to change the lock in order to prevent re-entry by a prior tenant. Landlord's failure to comply will subject landlord to liability for damages suffered as a result of the theft of the new tenant's property attributable to landlord's failure to change the lock. Landlord's obligation to change or re-key the lock is waived if lease delegates the installation of a new lock to the new tenant. Excludes apartment buildings with less than 5 units and the rental of space within a private home that is owner-occupied. The legislation includes no exceptions or special provisions regarding leased real property that a creditor financial institution acquires as OREO. [effective date: January 1, 2012]

Public Act 97-0482 (House Bill 1689) - - - more severe felony degrees for financial exploitation of elderly. Amends the Criminal Code to revise downward the monetary thresholds of financial exploitation of the elderly that trigger more severe classification of

felony. [effective date: January 1, 2012]

**Public Act 97-0483 (House Bill 3025) - - - notifications relating to data security breaches and disposal of customer data. Amends Illinois' Personal Information Protection Act to require that collectors of customer data that learn of a breach of data security must include in the breach notification to the customer toll-free numbers of consumer reporting agencies and the Federal Trade Commission, along with a statement the customer can obtain information from those sources about fraud alerts and security freezes on their credit files. Will also mandate the manners in which a business must destroy customer data, in either paper or electronic form and specifies civil penalties for failure to adequately destroy records in a manner that makes the data unreadable and unusable; *however, exempts financial institutions that maintain and destroy customer records consistent with applicable federal laws and regulations.* [effective date: January 1, 2012]**

**Public Act 97-0492 (House Bill 1651) - - - Amends the Illinois Savings and Loan Act of 1985 to define "depository institution" so as to include credit unions; to provide for streamlined amendment to the S & L's articles of incorporation by the board of directors solely for the purpose of accomplishing a name change; to permit and establish procedures for mergers between an S & L and any "depository institution;" to establish procedures for the sale of assets by an S & L to another depository institution; to provide for a credit toward subsequent fiscal year regulatory fees (e.g., "call report fees") once an adequate reserve has been established in the Savings Institution Regulatory Fund; and to make numerous technical changes distinguishing between the authority of the Secretary of the Illinois Department of Financial & Professional Regulation ("IDFPR") and the Director of IDFPR's Division of Banking. Will amend the Savings Bank Act in ways substantially similar to the above-referenced amendments to the Savings and Loan Act of 1985, but will also amend the Savings Bank Act to add detailed procedural specifics for administrative hearings (including details relating to subpoenas and depositions). Also amends the Corporate Fiduciaries Act to eliminate the requirement that certain financial condition reports be published in a newspaper of general circulation and to increase the amount of a trust company's statutory surety bond from \$1,000,000 to \$2,000,000. [effective date: January 1, 2012]**

**Public Act 97-0512 (Senate Bill 115) - - - increased penalties for employer violations of Equal Pay Act. Will increase from \$2,500 to \$5,000 per violation per employee the fine levied against an employer that discriminates or retaliates against an employee for making inquiries about his or her rights and status under Illinois' Equal Pay Act of 2003 or for filing a charge or testifying or otherwise cooperating with respect to an inquiry or proceeding under that Act. [effective date: January 1, 2012]**

**Public Act 97-0535 (Senate Bill 1972) - - - Amends the Condominium Property Act, in a**

subsection dealing with the purchase of a condo unit at a judicial foreclosure sale, by adding the purchaser's obligation to pay certain court costs associated with an action by the condo association to collect past due common expense payments for the condo unit in question; however, creditors/mortgagees that purchase the unit through judicial foreclosure sale are already excepted from that subsection and that exception remains unchanged in this legislation. [effective date: January 1, 2012]

Public Act 97-0555 (House Bill 1153) - - - real property transfer on death. Creates the "Illinois Residential Real Property Transfer on Death Instrument Act." The Act will establish procedures for the non-testamentary transfer of residential real estate upon the death of the owner. "Residential real estate," for purposes of this Act, includes one to four housing unit properties; condominium units; units in residential cooperatives; and a single tract of agriculture real estate not larger than 40 acres improved with a single family residence. Following the death of the owner, the designated beneficiary takes ownership subject to creditors' rights against the real property to the same extent as with any other non-testamentary transfer. A transfer on death instrument, or any document of revocation of a transfer on death instrument, may only be prepared by the owner himself or herself or by an attorney licensed in Illinois. [effective date: January 1, 2012]

Public Act 97-0576 (Senate Bill 1306) - - -licensing and regulation of collateral repossession agencies. Creates the Collateral Recovery Act, placing the Illinois Commerce Commission in charge of licensing and regulating the business activities of repossession agencies and establishing license requirements and minimum qualifications for repo agency managers and repo agency employees. Makes it unlawful for an unlicensed person or entity to attempt to repossess a vehicle or other collateral in Illinois, *but includes an exception for a financial institution and its employees if the repo activity is being conducted on behalf of that financial institution.* [effective date: July 1, 2012; and the legislation includes an automatic "sunset" or repeal on January 1, 2022]

For further information or to obtain a copy of any of these new laws, please contact CBAI General Counsel Jerry Cavanaugh by phone (1/800-736-2224 from within Illinois) or by email at [jerry@cba.com](mailto:jerry@cba.com).