



Community Bankers Association of Illinois
Department of Governmental Relations

NEWS FROM THE FRONT - 03/09/09

CBAI PASSES “ANTI-KOLLAR” BILL UNANIMOUSLY OUT OF COMMITTEE

Last August, Kollar Financial Strategies solicited business by issuing a letter to prospective customers warning that “stressed Illinois banks and thrifts” were in danger of failing and that depositors’ money was safer if placed with its firm instead of in banks and thrifts. CBAI responded legislatively to the misleading solicitation of the investment advisor firm with **Senate Bill 1620**, sponsored by Senator Link (D-Waukegan).

SB 1620 amends the Derogatory Statement About Banks Act, a law that currently prohibits any person from “willfully and maliciously” making derogatory statements about a financial institution “with intent to affect the solvency or financial standing” of the financial institution. However, CBAI believed clarification was needed as the current law could arguably permit a statement that might harm a bank if the person making the statement claims the statement was not malicious or that the intent was not necessarily to affect the solvency of the bank.

SB 1620 strengthens the Act by adding a “reasonable person” standard to the Act. Thus if a reasonable person should know that a statement could affect the solvency of a financial institution, then the “intent” requirement is met. The bill also adds a new section to regulate derogatory statements made about financial institutions for commercial purposes. This bill would grant the Illinois Department of Financial and Professional Regulation the authority to issue cease and desist orders, as well as civil monetary penalties.

CBAI staff testified in support of **SB 1620** in the Senate Financial Institutions Committee, and the bill passed unanimously.

AMENDMENT TO PAYABLE ON DEATH ACCOUNTS ACT CLEARS COMMITTEE

SB 1621 passed unanimously out of the Senate Judiciary committee on Wednesday. The bill is a CBAI initiative to broaden the Illinois Trust and Payable on Death Accounts Act to allow the non-probate transfer of ownership of the account funds to an organization that is not a “natural person.” This change would provide additional opportunities for the accountholder to direct the

transfer of his or her funds to a charitable or business organization upon the accountholder's death.

CBAI STOPS INTEREST RATE CAP LEGISLATION

House Bill 2350, sponsored by Representative Joyce (D-Chicago), imposes an interest-rate cap of 9% on commercial loans made by Illinois state-chartered financial institutions. CBAI joined other financial trade associations to oppose this proposal and argued that the imposition of artificial caps on interest rates would, in actuality, restrict the availability of credit to small businesses, reduce the ability of a business to negotiate loan terms and, codify an interest-rate ceiling that may not reflect market conditions.

CBAI successfully lobbied members of the House Financial Institutions Committee to vote "NO" as **HB 2350** failed to receive the votes necessary to pass the bill out of committee.

STATE ORDER TO DISCONTINUE FARM CREDIT SERVICES' DIVIDEND PATRONAGE PROGRAM UPHOLD

Last week, the Illinois Department of Financial and Professional Regulation's Division of Insurance issued a "Final Administrative Decision" upholding its earlier opinion that a Farm Credit System lender's "patronage dividend" is a form of rebate and is, therefore, a violation of the Illinois Insurance Code.

Farm Credit System's lenders have attempted to evade the prohibition against insurance commission or premium rebates by including a partial return of crop-insurance commissions or premiums within a "patronage dividend" paid to agricultural borrowers who purchase crop insurance from the FCS lenders.

CBAI has maintained that Farm Credit System lenders should comply with the same strict prohibition against insurance commission or premium rebates that is applicable to traditional banks, savings and loan associations, and savings banks.

CBAI is currently proposing legislation, **SB 1647** (Haine), to codify the Department's decision into law.

CBAI WORKING AGAINST BAD BILLS AS COMMITTEE DEADLINE APPROACHES

Several thousand bills have been introduced into the Illinois General Assembly the past few months, and CBAI is tracking all banking-related legislation. The bill-introduction deadline in

both the Senate and the House has passed, and this week marks the deadline for bills to pass out of committees in their respective chambers.

The following are some of the “bad bills” that CBAI will be opposing this week. Several bills are still pending an official position. CBAI is working with each bill sponsor in an effort to either convince the sponsor to “hold” the bill or amend it in such a manner as to remove our opposition. If sponsors do not agree to hold their bills or they will not accept amendments to make the bills palatable, CBAI will work to oppose them outright. In that event, we may call upon you to engage in a grass roots effort to stop the bill.

House Bill 533, sponsored by Representative Jefferson (D-Rockford), amends the Illinois Banking Act and mandates financial institutions to fully disclose whether the financial institution has received any federal financial assistance. This disclosure must be made to current customers, prospective customers, and prior to making any State business transactions.

House Bill 856, sponsored by Representative Joyce (D-Chicago), amends the Residential Mortgage Licensing Act of 1987 to require mortgage brokers to retain a 25% interest in the servicing of residential mortgages whenever the broker seeks to transfer or sell the servicing of a residential mortgage. There will likely be an amendment to broaden this requirement so that it will affect all financial institutions, and CBAI will oppose the passage of this legislation.

House Bill 967, sponsored by Representative Ford (D-Chicago), amends the Code of Civil Procedure. Provides that in a foreclosure action while the municipality within which the property is located shall not be joined as a party unless joined under other provisions of the Code, the municipality shall be added to the service list in the foreclosure action and all parties shall provide the clerk of the municipality with a copy of any document or notice filed in the foreclosure action.

House Bill 1011, also sponsored by Representative Ford (D-Chicago), creates the Home Protection Pilot Program Act. Requires the Illinois Housing Development Authority to implement a pilot program to assist Illinois workers who have lost jobs as result of changing economic conditions in Illinois when those workers are in need of assistance to avoid losing their homes to foreclosure. Provides that the Program shall include counties selected at the discretion of the Authority on the basis of increased rates of foreclosure, actual foreclosure filings, unemployment, the need of local counseling agencies for increased capacity to service clients in need of assistance to avoid losing their homes to foreclosure, the availability of funding, and other factors the Authority determines to be relevant. Provides for loans to homeowners secured by liens on residential real property located in Illinois, and prohibits a mortgage from engaging in certain conduct upon a mortgagor's filing of an application for loan assistance.

House Bill 3741, sponsored by Representative Zalewski (D-Summit), would allow the Department of Revenue to require financial institutions doing business with the State to provide data concerning those holding accounts with the institution for use in collecting debts owed to the State. **CBAI is meeting with the bill sponsor this week to discuss our opposition to this proposal.**

Senate Bill 253, sponsored by Senator Link (D-Waukegan), amends the Conveyances Act to provide that every mortgage securing residential real estate shall have attached a rider, certified by the mortgage lender, that states the name of each participant in the origination of the mortgage, the participant's applicable license or registration number, if any, and the participant's function by using these function categories: mortgage origination company; loan officer; appraiser; real-estate broker for the seller; real-estate broker for the buyer; lender funding the mortgage; and title insurance company. Provides that a mortgage on residential real estate that is subject to the Illinois predatory lending database pilot program must have attached to it a certificate of compliance or a certificate of exemption issued pursuant to that program. **CBAI is currently working with the sponsor to amend this bill and remove our opposition.**

Senate Bill 750, sponsored by Senator Meeks (D-Chicago), is an education-revenue bill. One provision of the bill amends the Retailers Occupation Tax Act to create a **new tax on services** for banking institutions to generate revenue to fund education.

Senate Bill 1355, sponsored by Senator Collins (D-Chicago), amends the Electronic Fund Transfer Act and would require ATMs to be designed and programmed so that when a consumer enters his or her personal identification number in reverse order, the terminal automatically sends an alarm to the local law-enforcement agency having jurisdiction over the terminal location.

Senate Bill 1689, sponsored by Senator Hunter (D-Chicago), amends the Elder Abuse and Neglect Act. The bill adds officers, trustees, and employees of banks, savings and loans, and credit unions to the list of "mandated reporter" (of elderly abuse).

For more information on legislation that CBAI is tracking, please click [here](#).

If you have any questions or concerns, please contact [Kraig Lounsberry](#) or [Megan Stieren](#).

Don't forget to register for

CBAI's 25th Annual Capital Conference

Wednesday, April 22, 2009

[Click here for registration form and tentative agenda.](#)