



Community Bankers Association of Illinois
Department of Governmental Relations

NEWS FROM THE FRONT- 5/13/2010

No Budget Yet. General Assembly Will Return to Springfield Later This Month

The Illinois General Assembly was scheduled to adjourn the spring legislative session on May 7; however as has become the case quite often in Springfield, the legislature missed its deadline. Speaker Madigan addressed the House late afternoon on the 7th, and suggested that the General Assembly still had some work to do and would return later this month for one or two days to finalize the budget. Senate President Cullerton will likely coordinate with Speaker Madigan and bring the Senate back into session to act on any budget-related legislation that might pass the House and need Senate concurrence.

Prior to leaving Springfield, Senate Democrats passed a FY 2011 spending plan of nearly \$57 billion dollars with \$26.1 billion for state operations. The Senate plan provides for lump-sum expenditures and gives Governor Quinn “emergency” budget-management powers to allow him to cut and spend for state operations as he sees fit. The plan gives Quinn the authority to designate contingency reserves, issue emergency rules, suspend the pension continuing appropriation, extend lapse-period spending four extra months, and allow for transfers out of special state funds. The Senate Democrats passed the plan over the objections of Senate Republicans who voted against every aspect of the budget including \$100 million in re-appropriated Senate Republican capital projects from last year’s budget.

The Senate spending plan was never called for a vote in the House as Republicans and Democrats alike voted down a pension-bonding plan (SB 3514) that would have enabled the state to pay this year’s \$3.8 billion pension obligation. The bill needed a supermajority, 71 votes, but failed to even receive a simple majority when House Republicans refused to vote for the bill and several Democrats followed suit. After that vote, Speaker Madigan called an amendment that would have cut state-government spending by roughly the same amount as the pension bonding-plan would have raised, but because the amendment would have (among other things) cut General State Aid for schools by 25% the amendment received 99 NO votes and failed.

Although Governor Quinn is still calling for a one-percent increase in the state income tax, his proposal was never introduced in either the House or the Senate. While an income tax seems highly unlikely this spring, legislators are looking at other new revenue sources including securitizing Tobacco Settlement funds to receive a one-time \$1-billion dollar cash infusion, creating a tax-amnesty program for delinquent taxpayers to pay back taxes without penalty and interest, and increasing the cigarette tax. None of these measures however will bring in the kind of revenue needed to plug the whole in the hemorrhaging state budget.

It is likely that the House and the Senate will return sometime in the next two weeks to finalize the FY 2011 state-spending plan. Even if lawmakers agree on a spending plan, it will likely fall woefully short of fully funding state government operations and will more than likely add to the nearly \$13-billion dollar budget deficit.

Harmful Data Match Amendment Defeated in Committee

CBAI joined the other financial institution groups to defeat a proposal that was added to a tax-amnesty bill and would have required Illinois financial institutions to become tax collectors for the State. The proposal was contained in **House Amendment 2 to SB 377**, and was sent to House Revenue committee last Thursday evening with only a one hour posting. The proposal was the Department of Revenue “data match” and would have forced financial institutions to act as tax-collection agents and disclose to the Department of Revenue confidential customer information that they are generally bound by law to protect. CBAI has successfully opposed this proposal for several years and was aware that Governor Quinn was considering adding this language to one of several revenue proposals. CBAI learned about the amendment as it was posted and lobbied the members of the House Revenue Committee to oppose this harmful mandate on community banks. All Republicans and several Democrats voted against this amendment, and it failed in committee.

CBAI’s Payable on Death Accounts Act Legislation Passes Both Chambers

HB 5469 (Farnham/Link-Noland), introduced by CBAI, broadens 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. This change in law is beneficial to accountholders at Illinois financial institutions and to the many organizations to which the accountholders intend to transfer his or her funds upon the accountholder’s death.

HB 5469 passed both chambers unanimously. The legislation will be sent to the governor and CBAI is hopeful he will sign it into law.

CBAI would like to thank the sponsors, Representative Keith Farnham (D-Elgin) and Senators Terry Link (D-Lake Bluff) and Mike Noland (D-Elgin), for their support of this legislation.

365/360 Calculation of Interest Legislation Passes Both Chambers

SB 1118 (Harmon/Bradley) clarifies as existing law the use of 365/360 calculation for commercial loans. Initiated by the Illinois Bankers Association, CBAI fully supports this legislation and worked with the IBA and the Illinois Credit Union League to lobby the members of the General Assembly to support full passage of the bill. While the Illinois Trial Lawyers Association (ITLA) did not oppose the bill in the Senate with the agreement that the legislation would not affect any pending legislation and that it would be up to the individual courts to decide, ITLA opposed the measure in the House. Additionally, several attorneys who stand to gain from these lawsuits organized a group called “Citizens for Fair Lending” and fiercely lobbied against SB 1118 framing the legislation as fraudulent and anti-consumer.

Despite the opposition, SB 1118 passed the House 73-36-6, and will be sent to the governor for his consideration. Because there was opposition to this bill, it is undetermined at this time whether or not the governor will sign, veto, or amend the legislation. Passage of this bill will not solve the legal problems stemming from the 365/360 calculation, but CBAI believes passage of this legislation will be another defense for financial institutions when encountering these lawsuits and will strongly urge the governor to approve this measure.

Negotiated Foreclosure Legislation Passes the House

Funding for foreclosure-counseling services and the maintenance of abandoned and vacant real estate were hot topics this spring as legislators across the state, but specifically from Chicago, were hearing from constituents and municipalities in their districts. Numerous bills were introduced with respect to residential real-estate foreclosures in an attempt to address these concerns.

HB 6215 (Thapedi), as introduced, provided for a fee of \$5 for every \$1,000 that is sought as part of a foreclosure action. This fee would be deposited into a “Homeowner Loan Assistance Fund” that would be used to offer loan assistance to homeowners facing foreclosure. After getting little support in committee, the sponsor amended the legislation by reducing the fee to \$2.50 per \$500 required by the plaintiff at the time of filing the foreclosure complaint. This fee would be deposited into a “Foreclosure Relief Fund” that would be used for the purpose of providing grants to units of local governments and not-for-profit organizations, including not-for-profit-housing authorities and community organizations, to clean up, acquire, or demolish residential real estate that is abandoned, neglected or otherwise in need of additional care following foreclosure. CBAI, along with other trade associations from the financial industry, adamantly opposed both versions of this bill and were successful in keeping the bill in committee. Another fee of \$1,000 was proposed by the city of Chicago that would have been paid by ANY acquirer of foreclosed property. This fee would also have been used to pay for vacant and abandoned property clean up.

As session progressed, it became evident that some form of this proposal would take shape and would be introduced by the speaker’s office. It was clear that it would be in the best interests of the financial industry to work on negotiations.

CBAI, along with the Illinois Bankers Association and the Illinois Credit Union League, negotiated with Speaker Madigan’s staff on **SB 3739 (Collins/Lyons)**. This legislation, cited as the Save Our Neighborhoods Act of 2010, does the following:

- Creates a “Foreclosure Prevention Program” to make grants to approved counseling agencies for housing counseling and community-based organizations for foreclosure prevention outreach programs.
- Creates an “Abandoned Residential Property Municipality Relief Program” to make grants to municipalities to assist with removal costs and securing or enclosing costs incurred by the municipality.
- Requires (at the time of the filing of a foreclosure complaint) the plaintiff to pay a fee of \$50 for deposit into the Foreclosure Prevention Program Fund.

- Requires (upon the sale of residential real estate) the purchaser to pay a fee of \$1 for each \$1,000 (not to exceed \$300) into the Abandoned Residential Property Municipality Relief Fund. This fee is repealed on March 2, 2016, and will not apply if the mortgagee acquires the property. **CBAI insisted that the fee only be paid by a third party purchaser and not by a mortgagee.**
- Extends the 30/30/30 grace period established in the Homeowner Protection Act to July 1, 2013.
- Takes effect 60 days after becoming law.

CBAI and the other financial industry groups worked vigorously on negotiating a proposal that was least harmful to the financial industry while still providing the General Assembly the help and support they were seeking. SB 3739 passed the House with a vote of 87-26-3. The bill has been sent to the Senate for concurrence.

Elderly Abuse Training Legislation Negotiated in House

For the last several years, the Illinois Department on Aging and the Area Agencies on Aging have introduced legislation that would include financial institution employees as mandated reporters of elderly abuse. This year, the proponents (including the City of Chicago), introduced the mandate proposal again in **SB 3267**. CBAI, like in years past, opposed the mandate. After failing to get the bill out of committee, the proponents backed away from the mandated reporter provision and amended the bill to require financial institutions employees to receive training concerning financial exploitation of the elderly and related financial fraud or abuse.

With pressure from the City of Chicago and the sensitivity of the issue mounting, legislators asked the financial associations to seriously consider some type of negotiation to the bill. As a group, the financial associations agreed to minimum training standards to be developed by joint rulemaking with the Department of Financial and Professional Regulation and the Department on Aging. The financial associations will have a voice in the development of the rulemaking and CBAI will make sure that fair and acceptable training standards are developed.

SB 3267 passed the House unanimously and the Senate concurred with the House amendment 47-9-1. It will be sent to the governor.

Cook County Sheriff Tom Dart's Foreclosed-Home-Receiver Bill Amended in the Senate HB 6113 (Lyons/Martinez), initiated by Cook County Sheriff Tom Dart, would require the Illinois Department of Financial and Professional Regulation to license and regulate persons or entities involved in the foreclosure-home-receiver business. CBAI had several concerns with the bill and opposed. In an attempt to work in good faith with Sheriff Dart's office and the sponsors of the legislation, CBAI accepted amendatory language in lieu of the licensing and regulation of foreclosed home receivers. The amendment provides additional language to the notice that is sent to the mortgagor of a foreclosed property. The added language reads "YOU NEED TO ARRANGE TO REMOVE ALL OF YOUR PERSONAL PROPERTY FROM THE FORECLOSED PROPERTY WITHIN THAT 30-DAY PERIOD."

The Housing Action Center and the Shriver Center on Poverty oppose the amendatory language, claiming it could potentially confuse tenants living in foreclosed properties. The bill remains on

Third Reading in the Senate and while it could be considered when the Senate returns sometime this month, the sponsor has indicated that she will hold the bill.

State Banking Board Legislation Passes Both Chambers

Legislation intended to reconstitute the State Banking Board finally passed both chambers this spring. Former Governor Blagojevich virtually ignored the State Banking Board for years and did not replace members when their terms expired. Consequently, the board has not met in the past six years and has become dormant. Last spring, CBAI opposed an amendment proposed by the Division of Banking with the Illinois Department of Financial and Professional Regulation that would have reduced the size of the board to four bankers and removed the asset size categories for members of the board. CBAI entered into negotiations with the Division of Banking and the IBA in an attempt by all parties to create a functioning board. **SB 2581** represents the agreed product of these negotiations.

SB 2581 passed the House 113-0-2. It will be sent to the Governor.

Legislation to Require the Licensure of Appraisal Management Companies Stalls in Senate

The appraisal industry introduced **HB 5868 (Saviano/Link)** to require the Illinois Department of Financial and Professional Regulation to license and regulate appraisal management companies (AMC's). CBAI does not oppose the concept of licensing AMCs, but did initially oppose the new licensure due to several concerns with the proposed language. The appraisal industry agreed to remove provisions opposed by CBAI with the understanding that CBAI would remove its opposition. Several meetings with all the interested parties were held throughout the spring, but Wells Fargo, the Illinois Bankers Association and the Department could not reach an agreement with the appraisal industry and negotiations stalled in the Senate. Interested parties will likely reconvene negotiations this summer and fall in an attempt to reach agreement on this issue.

If you have any questions regarding these issues, please contact Kraig Lounsberry, kraigl@cbai.com, or Megan Stieren megans@cbai.com, or call Kraig or Megan at 1 (800) 736-2224.