



Community Bankers Association of Illinois *NEWS FROM THE FRONT*

NEWS FROM THE FRONT- 04/08/2019

State legislators will return to the Capitol this week before a two-week spring break begins. The end of this week marks the third reading deadline in both chambers, which means bills must be voted on and passed their original chamber before it can head to the other chamber.

Mortgage Foreclosure Fee Agreement Runs into Trouble

In the last edition of News From the Front, we reported that an agreement had been reached to reduce mortgage foreclosure filing fees. These fees were imposed during the mortgage foreclosure crisis and were intended as a temporary measure to assist in recovery efforts. The agreement at the time was that the fees would eventually be sunset but have since been extended twice. We reached an agreement with legislative sponsors to begin to reduce the fees with the intention of eventually phasing them out. An agreed upon amendment was drafted, filed and even approved in a Senate committee. Unfortunately, the House passed a version of the bill without the negotiated amendment that simply extends the sunset date of the fees by 3 years. We will continue to work on the bill in the Senate.

Higher Education Savings Program Passes out of the House

[**HB 2237 \(Gabel\)**](#) is an initiative of the State Treasurer's office, this bill creates the Illinois Higher Education Savings Program to be administered by the State Treasurer. This program, beginning in 2021, will automatically open a 529 college savings account for every child born in Illinois, and an initial deposit to the account will be made in the amount of \$50. If the initial \$50 deposit is unclaimed by the beneficiary's 10th birthday or unused by the beneficiary's 26th birthday, it will be considered forfeited. Unclaimed and unused seed funds will remain in the omnibus account for future beneficiaries. CBAI is

opposed to this new program because community banks across Illinois already have these savings products in place. This bill passed out of the House on a vote of 66-42-1 and will head to the Senate.

Bank On Legislation Passes out of Senate

[SB 1322](#) (**Castro**) amends the State Comptroller Act to create the Illinois Bank On Initiative to increase the use of Certified Financial Products and reduce reliance on alternative financial products. The Illinois Bank On Initiative will be administered by the Comptroller, who will be responsible for the specified ongoing activities of the Initiative. CBAI has been working with the Comptrollers Office on the legislation creating this voluntary program for financial institutions. CBAI will also have a seat on the board that will determine the policies of the Bank On Program. The bill passed the Senate unanimously and now moves to the House for consideration.

Other Legislation CBAI Opposes

[HB 3394](#) (**Welch**) amends the Business Corporation Act of 1983 to provide that, no later than the close of the 2020 calendar year, a publicly held domestic or foreign corporation whose principal executive offices, according to the corporation's SEC 10-K form, are located in Illinois shall have a minimum of one female director and one African American director on its board of directors. The Secretary of State may adopt rules to implement the provisions of the legislation and may impose penalties for violations as follows: \$100,000 for failure to timely file board member information with the Secretary of State; \$100,000 for failing to have at least one female and one African American director during at least one point of a calendar year; \$300,000 for subsequent failure to have at least one female and one African American director during the same calendar year. This bill passed out of the House floor after spirited debate on a vote of 61-27. It will head to the Senate.

[SB 1624](#) (**Glowiak**) amends the Personal Information Protection Act to require data collectors to report breaches of more than 100 Illinois residents as a result of a single breach to report to the Attorney General. Provides that the Attorney General shall report to the General Assembly specified information concerning breaches of data security by February 1 of each year. CBAI has concerns with this bill and reached out to the sponsor asking for an exemption under the federal Gramm Leach Bliley Act. SB 1624 passed out of the Senate **Telecommunications and Information Technology** Committee. An amendment is expected.

[SB 1636 \(Mulroe/Arroyo\)](#) amends the Contractor Prompt Payment Act to provide that a retainage of 10% of the payment may be withheld from a payment under a construction contract prior to the completion of 50% of the contract. Also provides that after 50% of the contract is completed, the amount of retainage for any subsequent payment may not exceed 5%. This bill passed out of the Senate 37-11-2 and is in the House awaiting committee assignment.

Other Legislation CBAI is Tracking

[HB 88 \(Guzzardi\)](#), Amendment #1 amends the Code of Civil Procedure to address debtor protections. The bill provides that consumer debt judgments of \$25,000 or less shall draw interest from the date of the judgment until satisfied at the rate of 5% per annum. Also provides that when a consumer debt judgment is entered upon any award, report, or verdict, interest shall be computed at the applicable rate from the time when made or rendered to the time of entering judgment upon the same and included in the judgment. The bill provides that interest shall be computed and charged only on the unsatisfied portion of the consumer debt judgment as it exists from time to time. Provides that the judgment debtor may stop the further accrual of interest on the consumer debt judgment. Provides that the provisions concerning interest on consumer debt judgments apply to all consumer debt judgments entered into after the effective date of the Act. Provides that a consumer debt judgment may be revived by filing a petition to revive the consumer debt judgment no later than 10 years after its entry and by serving the petition and entering a court order for revival. Provides that if a judgment or consumer debt judgment becomes dormant during the pendency of an enforcement proceeding against wages under specified Articles, the enforcement may continue to conclusion if the enforcement is done under court supervision and includes a wage deduction order or turn over order and is against an employer, garnishee, or other third-party respondent. This bill is a comprised agreement. House Amendment #1 to HB 88 is currently in House Rules Committee.

[HB 1581 \(Scherer/Stadelman\)](#) creates the College Student Credit Card Marketing and Debt Task Force to be administrated by the Department of Financial and Professional Regulation. The bill provides that the Task Force shall conduct a study on student credit card debt; specifies study requirements and provides that the Task Force shall report the findings of the study conducted and any recommendations to the General Assembly on or before December 14, 2019, at which time the Task Force shall be dissolved. This bill passed the House and is in Senate Assignments Committee.

[HB 3358](#) (Turner) as amended, creates the Data Transparency and Privacy Act to require entities that collect through the Internet personal information about individual consumers to make disclosures to the individual regarding the collection of the information. The bill establishes that a consumer has a right to opt out of the sale of the consumer's information and provides for enforcement by the Attorney General. HB 3358 does not apply to any financial institutions or affiliates that are subject to Title V of the Federal Gramm-Leach-Bliley Act. The bill would become effective April 1, 2020. The amendment will need committee passage before it heads to the House Floor.

[SB 138](#) (Collins/Tarver) amends the Mortgage Foreclosure Article of the Code of Civil Procedure in relation to short sales of property. The bill provides that, if an offer to purchase either a mortgage or residential property (which is limited to the primary, rather than the principal, residence of a person) is made by an entity with a tax-exempt filing status under Section 501(c)(3) of the Internal Revenue Code for the purpose of reselling that mortgage or residential property to the mortgagor, and financing for the repurchase will be provided by a certified community development financial institution, an affidavit, statement, agreement, or addendum limiting ownership or occupancy of the residential property by the mortgagor shall not provide a basis to avoid a sale or transfer, nor is it enforceable against the acquiring entity or any real estate broker, mortgagor, or settlement agent named in the affidavit, statement, agreement, or addendum. The bill states that nothing in the new provisions shall impair, abrogate, or abridge in any manner the rights of the mortgagee to accept or reject an offer to purchase either a mortgage or residential property, nor shall it give rise to a cause of action. This bill was negotiated and agreed to. It passed the Senate and is now in the House.

[SB 169](#) (Mulroe/Turner) amends the Civil Code of Procedure to delete language providing that the failure to send a copy of the notice to the alderman or to file an affidavit as required results in a fine of \$500 payable to the ward in which the property is located. The bill instead states that the failure to send a copy of the notice to the alderman or to file an affidavit as required shall result in a stay of the foreclosure action on a motion of a party or the court; if the foreclosure action has been stayed by an order of the court, the plaintiff shall send the notice by certified mail or by private carrier that provides proof of delivery; and after proof of delivery is tendered to the court, the court shall lift the stay of the foreclosure action. The bill passed out of the Senate unanimously and awaits committee assignment in the House.

[SB 1134](#) (Harmon) amends the Mortgage Foreclosure Article of the Code of Civil Procedure to provide that if any defendant cannot be personally served with a summons and complaint but is served by publication, it is the duty of the plaintiff or his or her representative to mail to each defendant listed on the filed Affidavit for Service by

Publication a copy of the published notice by first-class mail, addressed to each defendant whose place of residence is stated on the affidavit. Also states that an affidavit of the plaintiff or his or her representative stating that he or she has mailed the copy of the notice is evidence that he or she has done so.

[SB 2023 \(Hutchinson\)](#) provides that the Secretary of Financial and Professional Regulation shall not: issue an order against a financial institution for unsafe or unsound banking practices solely because the entity provides financial services to a cannabis-related legitimate business; prohibit, penalize, or otherwise discourage a financial institution from providing financial services to a cannabis-related legitimate business solely because the entity provides financial services to a cannabis-related legitimate business. CBAI testified before the Senate Financial Institutions Committee in favor of this legislation. CBAI is also supportive of federal cannabis banking safe harbor legislation. SB 2023 passed out of the Senate Financial Institutions Committee and is on 3rd reading in the Senate.

Notes From Springfield

State Representative Melissa Conyears-Ervin has been elected to serve as Chicago City Treasurer. It is expected that she will resign her seat in the General Assembly and a replacement will be named in coming weeks.

A capital program funding bill, [HB 3823 \(Thapedi\)](#), has been introduced that would generate approximately \$2 billion a year for transportation, largely by raising the state's motor-fuel tax from 19 cents a gallon to 44 cents. We expect competing capitol funding proposals to surface towards the end of the legislative session.

The General Assembly's Commission on Government Forecasting and Accountability presented legislators with their "unofficial" analysis of the Governor's graduated income tax plan. COGFA estimates that the Governor's plan would net \$3.31 billion – about \$69 million less than the Governor's projections of \$3.4 billion. Analysis is based on interpretation of the proposed plan and not actual legislation meaning that the analysis and estimate could change as the plan is finalized.

A shell bill to legalize recreational cannabis, [SB 7 \(Steans\)](#), advanced out of a Senate committee. The bill contains no substantive details at this time. The sponsor promised to bring the bill back to committee when plan is finalized.

Cannabis Banking Summit

CBAI partnering with the Treasurer Mike Frerichs to promote an upcoming cannabis banking summit. This free event is intended to bring together experts and interested parties to discuss issues surrounding the legal cannabis industry and access to financial services. If your bank is interested in the topic or think you may become interested after safe harbor provisions are enacted, then you are encouraged to attend. CBAI will be participating on a regulatory panel and will be on hand to help introduce community bankers to other industry officials.

Normalizing Banking for Cannabis Related Business

Monday April 15, 2019

9am-12pm

Chicago

Free -space is limited, [click here](#) to register.

ON THE FEDERAL SIDE

CBAI Urges Regulators to Provide Maximum Capital Relief and Simplification for Community Banks; In an April 5, 2019 comment letter to the OCC, Federal Reserve, and the FDIC, the CBAI urged regulators to provide the maximum capital relief and simplification for community banks. The Regulators proposed a Community Bank Leverage Ratio (CBLR) of 9%, which is permissible under recently enacted legislation (a range of between 8% and 10%). However, that level will deny approximately 600 additional community banks from the maximum allowable regulatory relief. CBAI urged the Regulators to decrease the proposed CBLR from 9% to 8% which will more closely align it with the current regulatory capital requirements for “well capitalized” banks.

In addition, the Regulators proposed a new Prompt Corrective Action (PCA) framework for the treatment of qualifying community banks that fall below the CBLR. CBAI believes these thresholds are unnecessary, will have harmful unintended consequences, and run counter to Congressional intent. In the unfortunate event the proposed PCA framework is implemented, CBAI recommended that, before being downgraded to “adequately capitalized”, qualifying community banks (which have opted-in to the CBLR) should receive assistance and reasonable time to either 1) return to being “well capitalized” under the new framework; 2) demonstrate that they are “well capitalized” under the current framework; or 3) opt-out and go back to complying with the more complicated risk-based capital requirements under the current framework. [Read CBAI Comment Letter](#).

CBAI Participates in FDIC Deposit Insurance Applications Roundtable; The Federal Deposit Insurance Corporation (FDIC) hosted a Deposit Insurance Applications Roundtable on March 22, 2019, to obtain an array of views and suggestions regarding the

deposit insurance applications process. Those attending included a variety of individuals and firms both interested in and familiar with the organization of newly chartered (de novo) banks. This roundtable was part of a nation-wide outreach with meetings in each of the FDIC's six regional offices. Community Bankers Association of Illinois (CBAI) SVP Federal Governmental Relations, David Schroeder, participated in the Roundtable at the FDIC's regional office in Chicago.

CBAI has consistently maintained that de novo community banks are vitally important to maintaining a strong, growing, evolving and vibrant banking profession, and looks forward to the consistent success of applicants obtaining FDIC insurance (and creating scores of community banks) over the next several years. CBAI encouraged the FDIC to move swiftly in that direction. [Read Article.](#)

We look forward to seeing you this Wednesday at Capital Conference in Springfield!

Capital Conference Sponsored By:



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For more information, or if you have any questions or comments, please contact [Jerry Peck](#) or [Megan Peck](#) at 800/736-2224.