



Community Bankers Association of Illinois
Department of Governmental Relations

NEWS FROM THE FRONT - 11/06/2009

In addition to acting on bills that were vetoed or amendatorily vetoed by the Governor, the General Assembly attempted to wrap up several major issues last week as state lawmakers concluded the fall veto session. Legislators are not due back to the Capitol until mid-January.

VETO SESSION ROUND-UP

Bankers' Bank Provision Passes Both Chambers

Last spring, CBAI introduced a proposal that would allow state-chartered bank shareholders to acquire up to 15% (instead of 5%) of the voting securities of a bankers' bank. This fall the proposal was rolled into an omnibus bill, [Senate Bill 1894](#). In addition to the bankers' bank provision, SB 1894 also amends the Code of Civil Procedure and Illinois Municipal Code to provide two new notices in foreclosure actions and to allow municipalities, with certain restrictions, to obtain a lien for specific costs associated with the removal of specified nuisances from abandoned residential properties.

The corrective actions subject to the municipality's superior lien relate to: (1) cutting and removal of neglected weeds, grass, trees and bushes, (2) pest-control activities on any parcel of private property, (3) removal of infected trees, (4) removal of garbage, debris and graffiti, and (5) securing or enclosing abandoned buildings. In order for the superior lien to be enforceable, the municipality must meet certain standards. The municipality must, within one year after the removal cost is incurred, file the notice of lien in the office of the recorder. The notice must consist of a sworn statement setting out: (1) a description of the underlying parcel; (2) the amount of the removal costs; and (3) the date(s) of the removal.

CBAI, along with other financial services associations, worked vigorously with the sponsor and proponents of the measure most of last spring, and was successful in reaching some negotiated improvements to the original proposal. The originally proposed legislation would have created a new act with burdensome upkeep requirements and penalties, and would have allowed municipalities to enact their own individual property preservation laws regarding abandoned property.

The omnibus bill also contains changes to the Real Estate Licensure Act and expands the Anti-Predatory Lending Database Program to Kane, Will, and Peoria Counties beginning July 1, 2010.

SB 1894 passed both chambers and will be sent to the Governor.

Bill to Reconstitute State Banking Board Passes Senate

[Senate Bill 2101](#) reconstitutes the State Banking Board and reduces the size of the board from 17 to 12 members. The board will now be made up of 9 members representing banks, two public members and the Director of the Division of Banking. SB 2101 also eliminates the board for the Illinois Bank Examiners Education Foundation (IBEEF) and transfers the governing function of that foundation to the State Banking Board.

Former Governor Blagojevich virtually ignored the State Banking Board and did not replace members when their terms expired. Consequently, the board had not met in the past 6 years and had become dormant. Last spring, CBAI opposed an amendment proposed by the Division of Banking that would have reduced the size of the board to 4 bankers and removed the asset size categories for members of the Board. CBAI then entered into negotiations with the Division of Banking and the IBA in an attempt by all parties to create a functioning board, and SB 2101 is the agreed product of those negotiations. SB 2101 passed the Senate unanimously and will likely be considered in the House during the spring legislative session.

Pre-Need Funeral Trusts Required

The General Assembly approved an amendatory veto delaying by one month the effective date of [Senate Bill 1682](#), and upon certification by the Governor, this bill will become law. SB 1682 amends the Illinois Funeral or Burial Funds Act and the Illinois Pre-Need Cemetery Sales Act by creating a new Pre-Need Funeral Consumer Protection Fund and adding other requirements on licensees who sell pre-need funeral contracts to consumers. Among the changes that will affect community banks and their customers is the requirement that a seller of the pre-need funeral contract (for example, a funeral director or funeral home) must designate a professional, regulated corporate fiduciary to maintain the trust that is funded by the purchaser. Prior to this change, the seller could maintain the trust account as the trustee for the purchaser, provided that the seller managed proceeds of less than \$500,000 as trustee. With the enactment of SB1682, the seller will be required to appoint a trust company or a trust department of a financial institution to act as trustee for the purchasers' funds. CBAI has already reached out to the State Comptroller, who initiated this legislation and who has regulatory authority over the pre-need funeral contract business, to minimize the impact that these changes will have on community banks. The legislation will not take effect until January 31, and CBAI hopes to have achieved some helpful understandings with the Comptroller before that effective date.

Mortgage Escrow Language Passes Both Chambers

[Senate Bill 253](#) amends the Mortgage Escrow Account Act to accommodate changes to Federal Reserve Regulation Z (effective April 1, 2010) that will affect certain "higher-priced mortgage loans." The new Reg Z requirements include mandatory escrow accounts for the payment of property taxes and homeowners' insurance for at least the first year of the loan. The changes made by Senate Bill 253 will clarify that Section 6 of the Mortgage Escrow Account Act (authorizing the borrower to pledge an interest bearing time deposit in lieu of an escrow arrangement) is not available to borrowers when the higher-priced mortgage loan provisions of Reg Z are applicable or when a subprime lender makes a loan pursuant to a "homeownership preservation program" that requires establishment of an escrow account. Because the legislation only affects a borrower's right to pledge an interest bearing account in lieu of escrow and only

applies to certain categories of loans made by subprime lenders, CBAI does not anticipate that the mortgage lending practices of community banks will be affected by this legislation.

SB 253 passed both chambers and will be sent to the Governor for his consideration.

Proposal to Create Recall Provision Will Appear on November Ballots

[House Joint Resolution-Constitutional Amendment 31](#) was approved by both chambers this fall and is one step closer to giving Illinois voters the ability to recall a governor. The question will now be placed on the November 2010 ballot for voter consideration. For the gubernatorial recall to be inserted in the state Constitution, it will need 60 percent approval of citizens voting in the election. The constitutional amendment sets up a process for recalling the governor which includes support from 30 legislators, petitions from citizens, and a special election. A second special election will follow to elect a replacement.

Campaign Finance Reform Passes the General Assembly

A campaign finance reform proposal also surfaced this veto session that will set limits on how much parties and caucus leaders can contribute to candidates in primary elections, but not for general elections. [Senate Bill 1466](#) creates caps on contributions for the first time in Illinois. Candidates could receive up to \$5,000 from an individual, \$10,000 from a corporation, labor union or association and \$50,000 from another candidate's political committee. There also are contribution limits on how much cash or assistance that political party committees (including legislative leaders' committees) could give to candidates in a primary election. Their contribution limits would be on a sliding scale of \$50,000 to \$200,000, depending on which state or local office a candidate is seeking. SB 1466 passed both chambers, despite Republican opposition. It will be sent to the governor, who is expected to sign the legislation.

Legislative Proposals

The CBAI Legislative and Regulatory Committee will meet in December. Please forward any legislative initiatives to [Megan Stieren](#) or [Kraig Lounsberry](#). If you have any questions please email Megan or Kraig or call them at 1(800)736-2224.