



**Community Bankers Association of Illinois**  
*Department of Governmental Relations*

***NEWS FROM THE FRONT- 6/12/18***

Governor Rauner has signed legislation implementing the Fiscal Year 19 budget. The Governor was joined by Republican and Democratic legislators during the bill signing ceremony. This marks the first time that the first-term Republican Governor has signed a full year budget during his tenure in office. The fiscal year begins July 1<sup>st</sup>.

Standard and Poor's Rating Agency reacted to the new state budget just one day after it was signed into law. The rating agency takes exception with claims that the budget is "balanced", saying it relies on hundreds of millions of dollars that may never materialize including \$300 million for the [sale of the Thompson Center](#) and \$445 million from new pension buyouts. The rating agency also noted that the plan does little to address the state's massive pension debt or help deal with [more than \\$7 billion](#) in unpaid bills. The rating agency noted that the new budget has "potentially constructive credit implications" but "the substance of the package largely represents an extension of the status quo". S& P continued Illinois' currently credit rating at a BBB-.

Republican State Senator Karen McConnaughay announced that she will not seek re-election in November. McConnaughay plans to serve out the remainder of her term.

The General Assembly remains adjourned until November 13<sup>th</sup> at noon.

## **2018 SPRING SESSION RECAP**

### **CBAI Legislative Initiatives**

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#### **[HB 3806](#) - Unclaimed Property**

Last year the General Assembly quietly slipped language rewriting the State's unclaimed property law into the budget bill and quickly passed the law without proper negotiations or

legislative review. The Revised Uniform Unclaimed Property Act (RUUPA) went into effect on January 1, 2018. To address serious concerns with the new law, CBAI along with a coalition of associations representing the financial profession have been meeting with the Treasurer's office for the past year. Among the chief concerns are presumptive abandonment periods, auto renewal of CDs and time deposits, ACH serving as an indication of interest and confidentiality and visitation standards for auditors.

Late in session, we drafted an amendment containing all the items that the financial industry group and Treasurer's Office had previously agreed to and filed it as an amendment to HB 3806. The legislation passed the Senate unanimously, but the amendment needs to head back to the House for a concurrence vote before it could be sent to the Governor. We are hopeful that the House will take up the concurrence vote in the November veto session and the changes to the law will be enacted for 2019.

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#### **HB 4589 - Savings Bank Examinations**

This legislation amends the Savings Bank Act to delete the requirement that savings banks conduct a yearly audit in addition to the normal bank examinations conducted by state regulators. Under this bill, savings banks would be examined in a manner consistent with financial institutions regulated under the State Banking Act, at least once every 18 months. This legislation passed both chambers and is under consideration by the Governor.

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#### **SB 2432 - Mortgage Foreclosure Trolls**

This legislation addresses a technicality in foreclosure cases involving the service of summons that was the result of the 2<sup>nd</sup> District Appellate Court's decision in *Arch Bay v Perez* from 2015. In Arch Bay, counsel sought to vacate a foreclosure alleging that the form of the summons was defective because the defendant's name did not appear on the first page, but instead appeared on the second page that was stapled to the first page. The bill provides a clarification of the law and closes a legal loophole foreclosure trolls used to drag innocent homeowners to court looking for settlements by threatening property rights. This legislation seeks to clarify the current law and close the loophole created by the Arch Bay decision. This legislation passed both chambers and is currently under consideration by the Governor.

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#### **SB 2885 - State Banking Act Update**

This legislation sought to make three changes to the State Banking Act. First, it would make an inflation adjustment in a provision allowing a state bank that has been in existence for 10 years or more and has less than \$50,000,000 (rather than \$20,000,000) in assets to potentially have a minimum of 3 directors. It would also extend the exemptions from loan and investment limits described in specified provisions of this Act to any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned by the United States. Finally, it would require IDFPR to provide information relating to the use of call report fees upon the request of the State Banking Board. This legislation was unanimously approved in

the Senate, but CBAI decided to hold it while we attempt to address IDFPR concerns before moving it in the House.

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### **[SB 3392](#) - Exempts Banks and Thrifts from the Installment Sales Contract Act**

This legislation amends the Installment Sales Contract Act to exclude a financing arrangement for the transfer of residential real estate that for religious or cultural reasons does not allow for the collection of interest from the scope of the term "installment sales contract". This exemption benefits community banks that have developed alternative forms of financing to accommodate customers that are prohibited by religious practices from using financial services that involve interest payments. This exemption is limited to only state and nationally chartered banks and credit unions. This legislation passed both chambers and is currently under consideration by the Governor.

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### **[HR 826](#) - Electronic Lien and Title**

In this resolution, the Illinois House of Representatives unanimously encourages the Illinois Secretary of State's office to take the necessary steps to implement electronic lien and title in Illinois. The General Assembly passed legislation in 1990 clearing the way for the Secretary of State to implement the program but little to no progress has been made in the past 18 years.

## **Legislation of Interest That Passed Both Chambers**

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### **[HB 1595](#) - Nursing Mothers in the Workplace**

This legislation would require employers to give nursing mothers a reasonable break, during the first year after the child's birth, each time the employee needs to express milk. The bill would prohibit an employer from reducing an employee's compensation for time used for the purpose of expressing milk or nursing a baby.

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### **[HB 4268](#) - Home Repair and Remodeling Lien Notice**

This legislation adds a consumer education provision to the Home Repair and Remodeling Act. In the home repair consumer rights pamphlet, the revised notice language would now read: *"Before you pay your contractor, understand that the Mechanics Lien Act requires that you shall request and the contractor shall give you a signed and notarized written statement (known as a "Sworn Statement") that lists all the persons or companies your contractor hired to work on your home, their addresses along with the amounts about to be paid, and the total amount owed after the payment to those persons or companies. Suppliers and subcontractors have a right to file a lien against your home if they do not get paid for their labor or materials. To protect yourself against liens, you should demand that your contractor provide you with a Sworn Statement before you pay the contractor. You should also obtain lien waivers from all contractors and subcontractors if appropriate. You should consult with an attorney to learn more about your rights and obligations under the Mechanics Lien Act."*

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**[HB 4397](#) - Student Loan Servicers**

CBAI supports this legislation that amends the Student Loan Servicing Rights Act. It simply makes the distinction that a “student loan servicer” does not include a law firm or licensed attorney that is collecting post-default judgement. This distinction is helpful because it allows attorneys to act directly as agents of banks looking to collect debt.

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**[HB 4710](#) - College Student Credit Card Debt Task Force**

This legislation creates a task force including representatives from the financial industry, including CBAI, and higher education to explore credit card debt among college students. The task force will be administered by IDFP and will issue a report to the General Assembly by November 1, 2019. CBAI will ask the Governor’s Office to consider an amendatory veto to strengthen the task force by increasing representation to include a broader cross section of experts. We would also like to see the scope of the findings increased to include all sources of student debt.

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**[HB 4765](#) - Cook County Recorder Fee Schedule**

This legislation requires Cook County (Chicago) to adopt and implement a predictable fee schedule for documents filed with the county recorder. It also requires the Cook County Recorder to develop standardized documents.

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**[HB 4922](#) - Fee Restraint on Pre-Paid Rebate Cards**

CBAI opposed this initiative to the Illinois Treasurer’s Office to enact a statutory fee restraint on pre-paid rebate cards. These rebate cards are generally issued by retailers or manufacturers as an incentive to purchase products. Under this legislation the card issuers would no longer be allowed to collect dormancy fees on cards and unused value would ultimately be escheated to the Treasurer’s Office.

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**[HB 5047](#) - Presumptively Void Transfers to Caregivers**

CBAI supported this legislation that allows family members to challenge monies given to caregivers in a transfer on death instrument that exceed \$20,000. This allows families to challenge the transfers when they believe a caregiver may have abused their trust to convince an elderly patient to turn over property after death. Importantly for the banking profession, this legislation only prohibits banks from transferring property after the bank has received proper legal notice that a legal challenge to the transfer has been filed. Banks are not liable for transfers made before the legal notice is issued.

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**[SB 331](#) - Reduces Penalties for Owners of Cash Dispensing Machines**

This legislation amends the Electronic Fund Transfer Act and reduces the penalties that the Secretary of Financial and Professional Regulation may impose. Civil penalties are reduced to \$100 (rather than \$1,000) on an owner of a cash-dispensing terminal for each violation of provisions of the Act (rather than the first violation). Provides that an owner cannot be fined more than \$1,000 for violating provisions of the Act (rather than being penalized \$10,000 for second and subsequent violations).

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#### **[SB 1246](#) - ABLER Accounts Exempt from Judgements**

This legislation shields monies deposited in ABLER (Achieving a Better Life Experience) accounts from post judgement debt collection. ABLER accounts are 529 plans as defined in the Internal Revenue Code. They are intended to provide tax-advantage savings opportunities for people with disabilities and their families.

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#### **[SB 2660](#) - ABLER Account Transfers**

This legislation allows the proceeds of an ABLER account to be transferred to a designated beneficiary upon death. The proceeds of the account may also be transferred to another eligible individual designated by the beneficiary or the estate of the designated beneficiary. It prohibits the state from seeking payment from the transferred accounts for certain federally protected benefits.

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#### **[SB 2661](#) - Illinois Treasurer Deposit of State Monies**

This legislation allows the Illinois Treasurer to enter into agreements with banks and savings and loans for the deposit of state monies. It allows the Treasurers to deposit securities with any bank or savings and loan within the United States rather than the current limit of New York City. It also adds to the classes of securities the Treasurer may accept as collateral for deposits not insured by the federal government.

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#### **[SB 2858](#) - State Borrowing from Itself to Pay State Debt**

This legislation stipulates that if the state bill backlog within the Comptroller's Office is over \$1 billion (currently \$7.1 billion) then the State Treasurer may use state funds to invest in state debt through the Vendor Payment Program. Essentially the State Treasurer would use state funds to purchase state debt and collect interest payments from the state for those loans.

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#### **[SB 2958](#) - Tax Lien Filing**

This legislation requires notices of a tax lien to also include the county or counties where the real property to which the lien will attach is located. The Illinois Department of Revenue recently unveiled a searchable tax lien database. Having this information included in the notice of lien will allow the database to be searchable by county.

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### **SB 2999 - Employee Expense Reimbursement**

This legislation would require an employer to reimburse an employee for expenses incurred within the scope of employment or directly related to services performed for the employer. If an employer has an existing written expense reimbursement policy than the employee would be subject to the terms of that policy. This provision would only effect employers who do not have an established written reimbursement policy.

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### **SB 3052 - Capping Retainage in Construction Projects**

It is common practice in large construction projects to hold back a portion of the payment to contractors until completion to ensure there is an incentive to finish the work. This is known as retainage. Currently there are no legislative caps on retainage. Instead the numbers are agreed to in private construction contracts. This legislation would impose a 10% cap on retainage at the start of a project. After 50% of the project is completed the retainage would drop to 5% until total completion of the project. CBAI opposes this legislation because of a belief that retainage should remain a negotiable element of a private contract.

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### **SB 3182 - Allows Banks to Collect Reimbursements for Expenses**

This bill is an initiative of IDFP to make several minor technical changes to the Illinois Banking Act and the Illinois Savings Bank Act. CBAI is supportive of amendatory language that was added to the bill that requires banks to be reimbursed for costs that are reasonably necessary and that have been directly incurred in searching for, reproducing, or transporting certain data of a customer required or requested to be produced pursuant to a subpoena, summons, warrant, citation to discover assets, or court order. Banks still have the option to waive reimbursement if they so choose.

## **Legislation of Interest that Did Not Pass**

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### **HB 4163 - Equal Pay Wage History**

This legislation would bar employers from asking job applicants for prior wage or salary history unless it's already public information or the applicant is moving within the company. Proponents of the legislation argue this would help curb wage discrimination against women by ensuring an employer's salary offer isn't based on an unequal wage. CBAI is opposed to discrimination in any form, including gender equality. CBAI, and other pro-business groups opposed this measure because of the overly punitive penalties in the bill including the ability to seek damages at both the state and federal level and the lack of an affirmative defense for employers making strides to end discriminatory practices. The bill passed out of both chambers, but a parliamentary motion was filed in the Senate that allows the sponsor to keep the bill from being sent to the Governor for consideration. Governor Rauner issued an amendatory veto on similar legislation last year.

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### **[HB 4324](#) - Wage Liens**

As introduced, this legislation would allow employees to file pre-judgements liens against employers. The liens would also take priority over all other liens on the employer's business and personal property. CBAI worked with a coalition of business groups to develop compromise language that was adopted and passed out of the House. Unfortunately, proponents violated the agreement by filing an additional amendment in the Senate which ultimately doomed the legislation. The House voted not to accept the Senate's amendment and the legislation failed.

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### **[HB 5046](#) - Scheduling Notice Mandate**

This bill creates the Fair Scheduling Act to require employers to provide work schedules to employees at least 72 hours before the start of the first shift of the work schedule. It would require employers to pay employees if their work shift is canceled or reduced within 72 hours of beginning the shift. CBAI is opposed to employer mandates that impose significant regulatory and financial burdens on job creators.

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### **[HB 5139](#) - Regulatory Sandbox**

This initiative of IDFPR would create the Regulatory Sandbox Act to enable FinTech businesses to obtain limited access to the Illinois marketplace to test innovations in financial products or services. The bill would limit testing to 5,000 Illinois consumers and only for a testing period of 12 months, with a possible six-month extension. This bill passed the House but failed in the Senate. CBAI was engaged with IDFPR on the legislative proposal but did not take an official position on the legislation.

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### **[HB 5188](#) - Conveyances, Pure Notice**

Illinois has long been a hybrid race/notice state when it comes to the recording of conveyances. This is the basis of the 'first in time, first in right' standard that is important to protecting banks interest in property subject to a loan or mortgage. This legislation an effort by the Cook County Recorder of Deeds to set the stage for government filings to be recorded using blockchain technology. To ease the possible transition, the Recorder would like Illinois to move to a pure notice state. CBAI opposed this legislation that failed to gain support in the House.

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### **[HB 5480](#) - Shielding Assets from Judgements, Personal Property Exemptions**

This legislation increases the amounts a debtor can shield from a judgement. The exemption for a vehicle is increased from \$2,400 to \$10,000. The exemption for equity in tools of the trade would increase from \$1,500 to \$7,500. The personal property exemption would increase from \$4,000 to \$50,000. It also allows a debtor to protect up to \$4,000 in a checking or savings account. CBAI was willing to consider all the asset judgment bills as a package and negotiate a reasonable compromise. The proponents of the legislation did not agree to the compromise, and the entire package failed.

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**[HB 5483](#) - Shielding Assets from Judgements, Revival of Judgements**

This legislation changes the period to file for the revival of judgements from 5 to 7 years. Changes the limitation period for the enforcement of certain judgements from 7 to 5 years. This legislation failed as part of the larger package.

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**[HB 5484](#) - Shielding Assets from Judgements, Notice of Rights**

This language would require notice regarding debtor rights to be included as part of a summons that is issued as part of the enforcement action. It would also require notice to be posted in courtrooms and hallways outside courtrooms. This legislation failed as part of the larger package.

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**[HB 5485](#) - Shielding Assets from Judgements, Garnishments**

This legislation would increase the amount of wages, salary, commissions and bonuses that could be shielded from garnishment to satisfy debt judgements. This legislation failed as part of the larger package.

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**[HB 5486](#) - Shielding Assets from Judgements, Homestead Exemption**

This legislation increases the amount that can be shielded from judgement under the homestead exemption from \$15,000 for individuals to \$150,000. It also increases the exemption for couples from \$30,000 to \$200,000 based on proportionate share. This legislation failed as part of the larger package.

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**[HB 5487](#) - Shielding Assets from Judgements, Post Judgement Interest Rate**

This legislation would decrease the post judgement interest rate for judgements under \$50,000 that do not include compensation for injury or death from 9% to 2%. This legislation failed as part of the larger package.

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**[HB 5553](#) - Blockchain Technology**

This legislation is another initiative of the Cook County Recorder of Deeds to create the Blockchain Technology Act to allow permitted uses of blockchain technology in transactions and proceedings. Blockchain technology is growing at rapid speed, and several bills were introduced this session to address the issue. CBAI will continue to monitor these bills to protect the interests of community banks and their customers while not creating any unnecessary burdens.

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**[HB 5676](#) - Towing Service Guaranteed Payments**

This legislation would create a special standard for towing companies that would prohibit customers from canceling payments for sub-standard or incomplete services. The legislation



would make the registered owner of a vehicle and the person making a cancelled payment liable for towing services plus penalties even if the payment was cancelled for cause. CBAI monitored this legislation out of concern for the potential issues that would arise from creating a special payment standard for a specific industry.

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#### **[SB 1222](#) - Easing Regulations for Out of State Bank Competition**

This initiative of IDFPR would allow "foreign banks", which are defined as banks, savings associations, or trust companies that are organized in the United States but are outside of the State of Illinois and national banks who have their principal place of businesses outside the State of Illinois to be excluded from submitting applications to the state and paying fees to do business in Illinois. CBAI has opposed this bill for several years. Out-of-state banks should be subject to regulation by the state.

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#### **[SB 2470](#) - Vehicle Title Expiration Dates**

This initiative of the Secretary of State would establish a lien extinguishment, reaffirmation procedure. Lenders would have to show lien expiration dates on the face of the paper title filed with the Secretary of State. If the lien expiration would need to be extended, the lien holder would have to file additional paperwork and pay additional fees to have the lien expiration date extended on the title. CBAI is opposed to this increase regulatory and financial burden. Ironically, during discussions we mentioned to the Secretary of State's top staff that this issue would be easily resolved by implementing electronic lien and title in Illinois, but the SOS continues to drag their feet on that program.

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#### **[SB 2487](#) - Bank Supplier Diversity**

This bill would require any financial institution with assets of \$100 million or more that is receiving public funds to submit an annual report on its voluntary supplier diversity program to the IDFPR. It would also require the IDFPR to publish these reports on its website and to hold annual supplier diversity workshops. CBAI opposed the bill as this new report would be an unnecessary burden on community banks. Illinois community banks are already committed to help meet the credit needs of their customers in all segments of their communities; and are already regulated to do so.

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#### **[SB 2521](#) - Starter Interrupt Technology Regulations**

This legislation attempts to establish restrictions for dealers and other creditors on the use of electronic tracking technology or starter interrupt technology in connection with the credit sale, loan, or lease of a motor vehicle. Starter interrupt devices are commonly used in cases where customers have poor credit as an incentive to stay current on payments. Instead of having the vehicle repossessed the creditor can have the vehicle's starter remotely disabled until payment is made. CBAI opposed this legislation. While not many community banks currently use this

product, CBAI believes this type of technology is a tool that can potentially benefit both the consumer and the lender and should not be regulated out of existence.

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**[SB 2657](#) - Fee Prohibition on Electronic Transactions**

This legislation would prohibit post-issuance transaction fees on credit and debit cards. This stems from an exchange a legislator had with a retailer in his district who was improperly imposing extra fees on electronic transactions. CBAI was able to work with the legislator to get to the root of his concerns and convince him that this legislation was not necessary. Instead, the legislator is seeking regulatory action against the specific retailer in question.

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