

# Legislative Update

## Georgia State Capitol News

*Issue III*

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*February 2, 2007*

The General Assembly was in session all five days again this week. **Friday was the Fourteenth Legislative Day.** As you have probably heard by now, the General Assembly will be in recess Monday through Wednesday of next week. **As a result, we made the decision to cancel the CBA Day at the Capitol next Tuesday, February 6, 2007.** You should have received a notice to that effect by now.

We were quite disappointed to have to cancel this important event. However, when it became apparent that only a limited number of legislators will be at the Capitol until at least Wednesday of next week, it became obvious that we should cancel. While re-scheduling was considered, the only available dates were very late in the session when the General Assembly takes frequent recesses for budget negotiations subjecting us to a high probability of a second cancellation.

### **Bills Identified for Tracking**

The only new bill identified for tracking this week was **Senate Bill 70, which is the Housekeeping Bill of the Department of Banking and Finance.** The bill was introduced by **Senator Bill Hamrick (R), the Chairman of the Senate Banking and Financial Institutions Committee, from Carrollton.** The bill makes technical and clarifying changes to the banking code, the credit union code, the licensing law for residential mortgage lenders and brokers and the laws dealing with money transmitters. A section by section summary of the bill prepared by the DBF can be found at the following link <http://www.cbaofga.com/legislative/legislative-updates.php>. **Commissioner Rob Braswell provided an overview of the bill** at a meeting of the Senate Banking and Financial Institutions Committee on Tuesday, but **no vote was taken.**

One provision of SB 70, in the section dealing with mortgage laws, may be of special interest. Basically, it prohibits the use of loan information pertaining to a designated individual in advertisements without required disclosures being made, regarding the source of the information and any affiliation of the marketer with the lender. Hopefully, this will help with the problem some of you have experienced with your customer thinking you have sold information regarding their loan to a third party.

### **Activity on Bills Previously Identified for Tracking**

**House Bill 96, which adds Federal Home Loan Bank Letters of Credit to the list of acceptable security for public deposits, passed out of the House on Tuesday by a vote of 167-0.** The bill was transmitted to the Senate and now resides in the Senate Banking and Financial Institutions Committee. **We want to thank Representative James Mills (R), Chairman of the House Banks and Banking Committee, from Gainesville for introducing and handling this bill.**

**On Tuesday a hearing was held by the House Banks and Banking Committee on all three credit file freeze bills, HB 35 introduced by Representative Tommy Benton (R) from Jefferson and HB 38 introduced by Representative Rob Teilhet (D) from Smyrna and HB 130 introduced by Representative Calvin Hill (R), Vice Chairman of the House Banks and Banking Committee, from Canton. All three bills were assigned to a subcommittee chaired by Calvin Hill for further study.**

**The House Banks and Banking Committee also held a hearing on Tuesday on HB 163, which would legalize payday lending in Georgia, introduced by Representative Steve "Thunder" Tumlin (R) from**

**Marietta. This bill was placed in a subcommittee for further study. The subcommittee is chaired by Representative Mike Coan from Lawrenceville.**

Finally, **HB 121 by Representative Wendell Willard (R) from Atlanta, which clarifies that the appropriate place for a garnishment to be filed is either the registered office or the principal place of business of a corporation, was heard by the House Judiciary Committee on Thursday. After much discussion, it was decided that no vote would be taken on the bill. The bill was tabled and may be discussed later.**

**The General Assembly will be in recess until Thursday, February 8, 2007.**

**The *Legislative Update* is your guide to legislation affecting the community banking industry in Georgia. Summaries of the bills we are tracking were prepared by Susie Sisken of Miller, Hamilton, Snider & Odom, LLC with the assistance of the CBA staff. Miller, Hamilton, Snider & Odom, LLC is a CBA Associate Member Company.**

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**Any status changes of bills during the course of a legislative week will be reflected in italics.**  
**\*\*A COPY OF THE LEGISLATIVE UPDATE CAN ALSO BE FOUND ON OUR WEBSITE AT [www.cbaofga.com](http://www.cbaofga.com).\*\***  
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### **SENATE BILLS**

#### **SB 24-Computer Security; persons provide identifying information by falsely representing themselves to be a business; definitions; penalties (Senator Staton, 18<sup>th</sup>)**

**SUMMARY:** Senate Bill 24 amends the Code by the addition of a new Part 4 to 16-9 of the Code to provide both criminal (imprisonment and fines) and civil penalties (for the ISP provider, individual affected, web page owner) against persons utilizing the internet or electronic mail to induce another to provide identifying information by falsely representing themselves to be a business without the authority or approval of the business.

**STATUS AND COMMENTARY (AS NEEDED):** Passed Senate on 1/26/07; *Pending – House Judiciary Non-Civil.*

This is basically an “anti-phishing bill”. Clearly in concept we are supportive of this legislation. However, the bill contains safe-harbor provisions for employers if their employees solicit through company computers and internet connections a person’s personal identifying information without the authority or approval of the employing business. **It is our understanding that there will be efforts to strengthen the safe-harbor provisions in the House and we are supportive of those efforts. We will continue to carefully monitor the progress of this bill.**

#### **SB 70 - Financial Institutions; update banking laws to reflect changes in federal law (Sen. Hamrick, 30<sup>th</sup>)**

**SUMMARY:** The bill makes technical and clarifying changes to the banking code, the credit union code, the licensing law for residential mortgage lenders and brokers and the laws dealing with money transmitters. A section by section summary of the bill prepared by the DBF can be found at the following link .

**STATUS AND COMMENTARY (AS NEEDED):** *Pending – Senate Banking and Financial Institutions Committee.*

*CBA supports this bill. Commissioner Rob Braswell provided an overview of the bill at a meeting of the Senate Banking and Financial Institutions Committee on Tuesday, but no vote was taken.*

### **HOUSE BILLS**

#### **HB 35-Credit report agency; person request security freeze; provisions (Rep. Benton, 31<sup>st</sup>)**

**SUMMARY:** House Bill 35 amends the Georgia Code by the addition of a new Article 35 to 10-1 to the Georgia Code which establishes procedures permitting an individual to have a security freeze placed on his credit report at a credit reporting agency and to have the security freeze temporarily lifted. The credit reporting agency must disclose the process of placing and temporarily lifting a security freeze and the legislation also sets forth the duties of the credit reporting agency with respect to the security freeze. A consumer fee of \$5.00 may be charged by the credit reporting agency for any security freeze, or removal or temporary lifting of the freeze, however, there may be no charge against an individual who is a victim of identify theft. The bill also excludes the application of such provisions to certain entities.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Banks & Banking Committee.

*Bill was heard by the Committee on Tuesday, January 30<sup>th</sup> and assigned to a subcommittee for further study. The subcommittee is chaired by **Representative Calvin Hill, Vice Chairman of the House Banks and Banking Committee, from Canton.** We will continue to monitor the progress of the various “credit file freeze” bills.*

**HB 38-Credit report; place security freeze provisions (Rep. Teilhet, 40<sup>th</sup>)**

**SUMMARY:** House Bill 38 amends the Code by the addition of a new Code Section 10-1-913 which establishes procedures permitting an individual to have a security freeze placed on his consumer credit agency credit report utilized to determine insurance premiums, eligibility for coverage or tier placement and to have the security freeze temporarily lifted. The credit reporting agency must disclose the process of placing and temporarily lifting a security freeze and the legislation also sets forth the duties of the credit reporting agency with respect to the security freeze. No fee may be charged by the credit reporting agency for any security freeze, or removal or temporary lifting of the freeze.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Banks & Banking Committee.

*Bill was heard by the Committee on Tuesday, January 30<sup>th</sup> and assigned to a subcommittee for further study. The subcommittee is chaired by **Representative Calvin Hill, Vice Chairman of the House Banks and Banking Committee, from Canton.** We will continue to monitor the progress of the various “credit file freeze” bills.*

**HB 96 - State depositories; Federal Home Loan Bank; secure state funds (Rep. Mills, 25<sup>th</sup>)**

**SUMMARY:** HB96 amends Georgia Code Section 50-17-59 to provide that Federal Home Loan Bank letters of credit may be accepted to secure state funds on deposit in state depositories.

**STATUS AND COMMENTARY (AS NEEDED):** *Passed House by a vote of 167-0 on 1/30/07; Pending-Senate Banking & Financial Institutions Committee.*

There seems to be no controversy associated with this legislation this year. Hopefully, it will pass and **provide community banks with additional flexibility in securing public deposits. CBA supports this bill and we want to thank Representative James Mills (R), Chairman of the House Banks and Banking Committee, from Gainesville for introducing and handling this bill.**

**HB 121 - Corporations; summons of garnishment; change provisions (Rep. Willard, 49<sup>th</sup>)**

**SUMMARY:** HB 121 amends Code Section 18-4-23 to provide that summons of non-continuing garnishments must be served upon the agent in charge of either the registered office or the principal place of business of a corporation.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Judiciary Committee.

The clarification provided by this bill should assist community banks with multiple locations to implement a timely freeze on any funds on deposit upon being served with a garnishment. **It should eliminate problems, which sometimes have occurred, when a garnishment is filed at a branch location resulting in a lag time before a freeze can be implemented.** *The bill was heard by the House Judiciary Committee on Thursday,*

February 1st. After much discussion, it was decided that no vote would be taken on the bill. The bill was tabled and may be discussed later.

**CBA is in support of this bill.**

**HB 130 - Identity theft; security freezes; definitions; provisions (Rep. Hill, 21<sup>st</sup>)**

**SUMMARY:** House Bill 130 amends the Georgia Code to provide for procedures permitting an individual to have a security freeze placed on his credit report or credit score at a credit reporting agency and to have the security freeze temporarily lifted. The credit reporting agency must provide a means of temporarily lifting a security freeze and the legislation also sets forth the duties of the credit reporting agency with respect to the security freeze, including specific timing for the placement of the security freeze and the temporary lifting of the freeze. Fees which the consumer reporting agency may charge are established for any security freeze, or removal or temporary lifting of the freeze, however, there may no charge against an individual who is a victim of identify theft. The bill also excludes the application of such provisions to certain entities.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Banks & Banking Committee.

Basically, this is the model bill developed by Equifax and it **contains exemptions from any “credit file freeze” placed by a consumer for any community bank with a previously existing deposit or loan account. We will continue to monitor the progress of the various “credit file freeze” bills but this bill would appear to be acceptable to community banks.** *Bill was heard by the Committee on Tuesday, January 30<sup>th</sup> and assigned to a subcommittee for further study. The subcommittee is chaired by Representative Calvin Hill, Vice Chairman of the House Banks and Banking Committee and author of this bill , from Canton.,*

**HB 160 - Republic of Sudan; certain transactions and bids by state agencies; prohibit (Rep. Brooks, 63<sup>rd</sup>)**

**SUMMARY:** House Bill 160 adds a new article to the Georgia State Administration Statutes prohibiting business dealings with companies and entities located in the Republic of Sudan. Specifically, House Bill 160 adds a new chapter 36 to Title 50 of the Official Code of Georgia Annotated, prohibiting state agencies from doing business with U.S. domestic companies which do not certify that they are not conducting business with companies or entities located in the Republic of Sudan. The Office of Treasury and Fiscal Services shall not use a financial institution as a depository unless it certifies in writing that the institution has no direct loans and no fore knowledge of any indirect loans outstanding to a government unit or national corporation of the Republic of Sudan; and an external investment manager selected by the Board of Trustees of the Employees Retirement System of Georgia may not invest in any stock, or other obligation of any company doing business with or in the Republic of Sudan.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Governmental Affairs Committee

We will monitor this bill.

**HB 163 - Deferred Presentment Services Act; enact; repeal "payday lending" prohibition (Rep. Tumlin, 38<sup>th</sup>)**

**SUMMARY:** HB163 provides a new chapter 9 to Article 7 of the Georgia Code which would permit payday lending. Such lending would only be permitted by an entity licensed by the commissioner of insurance. The legislation, among other things, specifies the terms which must be included in a written agreement with respect to a payday transaction, limits the fees which may be charged, limits the timing of the transaction, prohibits renewal of the transaction, requires in certain instances the payday lender to provide a mandatory repayment plan in the event the borrower is unable to repay the transaction on the required date, prohibits payday lending transactions to a member of the US military or his or her dependents, and provides the consumer with a one day right of rescission.

**STATUS AND COMMENTARY (AS NEEDED):** Pending – House Banks & Banking Committee.

We will need to track this bill, which would legalize payday lending in Georgia, primarily in order to monitor the discussion on interest and usury and make sure the discussion does not spill over into bank offered products. *Bill*

*was heard by the Committee on Tuesday, January 30<sup>th</sup> and assigned to a subcommittee for further study. The subcommittee is chaired by **Representative Mike Coan from Lawrenceville.***