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Issue XII

*Community Bankers Association of Georgia
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GENERAL COMMENTS



That's a wrap! The 40-day legislative session is complete. Now, legislators can get back to their districts and begin campaigning for the General Primary that will be held on May 22, 2018. With 21 vacant positions in both the House and Senate, there will be lots of changes in leadership positions and committee assignments for the 2019 legislative session.

This session has been very busy and lots of bills have been passed by both the House and the Senate and will now go to the Governor for signature. Some of the bills awaiting signature that impact banks are detailed below:

[HB 780–Financial Institutions](#), by Rep. Bruce Williamson (R), Monroe. The House has agreed to the substitute by the Senate on March 29th with a vote of 164-0. The bill will now go to the Governor for signature.

The Department’s Housekeeping bill contains proposed legislative changes identified internally or suggested by the industry over the course of the previous year. Most of the proposed revisions for banks are relatively straight-forward as they either align certain standards regarding governance of these financial institutions with the corporate or non-profit corporation code or seek to align some of the currently existing standards between banks and credit unions. The majority of state-chartered banks have a holding company and there are a number of incredibly legitimate business reasons to form a holding company. However, the creation of a holding company does bring into the fold additional costs as well as an additional federal regulator – the Federal Reserve – for most of our institutions. By aligning certain corporate governance provisions, the Department hopes to remove any provisions that would artificially encourage the formation of a holding company.

The bill also creates an alternative parity power for individual institutions. Under current law, the Commissioner has the ability to issue a parity determination. If a national bank has the power to engage in an activity that our state-chartered banks cannot engage in, then, so long as the activity is safe and sound, the Commissioner has the ability to declare parity and permit state-chartered banks to engage in the same activity as permitted for federally chartered institutions. Quite simply, a parity determination gives the Commissioner the ability to level the playing field between Georgia state-chartered institutions and federal chartered institutions. The parity power in the bill contemplates parity being available on an individual institution basis. The language provides that state-chartered banks are authorized to exercise any power available to federally chartered entities subject to two limitations. First, the state chartered institution must provide the Department written notice of its intent to exercise the federal power. Second, after receiving the notice and related information, the Department will have a certain number of days to object to the exercise of the federal power either because it is unsafe or unsound or does not align with the purposes of the Financial Institution Code. In addition, the language authorizes the Department to approve the use of a federal power subject to limitations imposed by the Department. This provision will permit individual institutions to have parity subject to the Department not objecting to the exercise of the power.

[HB 897–Georgia Power of Attorney Act](#), by Rep. Chuck Efstoration (R), Dacula. The Georgia Power of Attorney bill is a follow-up to last year’s bill, which significantly restructured the laws governing Powers of Attorney in Georgia. HB 897 is mostly intended to make minor revisions to last year’s bill for the purposes of clarification and minor clean up. However, HB 897 provides relief to community banks in two key ways. First, HB 897 offers clarification regarding an Agents’ authority with respect to joint accounts, certain trust accounts, and accounts with POD beneficiaries. Second, and most importantly, HB 897 alleviates an issue under last year’s law where banks were not able to limit the risks associated with Powers of Attorney executed prior to July 1, 2017 in the same manner that they could for Powers of Attorney executed on or after this date. HB 897 extends the provisions allowing a bank to request and rely upon an opinion letter and agent certification when processing a Power of Attorney to all Powers of Attorney, regardless of the date of execution, provided that such Powers of Attorney are attested to by a notary public, or other

similar officer. Once HB 897 is signed by the Governor, banks will be better-able to implement a single process for reviewing and accepting Powers of Attorney.

[HB 1036–Fulton County; Superior Court](#), by Rep. Chuck Martin, (R), Alpharetta. The House agreed to the Senate substitute for the bill with a vote of 152-0 on March 27th. The substitute language was added to the bill as part of our discussions with the author on concerns focusing on potential title insurance issues if the tax parcel identification number were incorrect or missing from the document. The author of the bill worked with us to change the language within the bill to mitigate our concerns from a title insurance standpoint. The bill will now go to the Governor for signature. If signed by the Governor, then banks would need to update their procedures for real estate documents filed in Fulton County.

[HB 938–Insurance](#), by Rep. Darlene Taylor (R), Thomasville, was passed by the Senate with a vote of 50-1 on March 27th. The bill will now go to the Governor for signature. This bill states that in lieu of individuals obtaining a limited credit life insurance license that any business entity may make an application with the Commissioner at Department of Insurance subject to the following conditions:

- The entity examines the character and fitness of each of its employees that sells credit life insurance, including performing a criminal background checks;
- The entity provides at least five hours of training in minimum basic insurance concepts and credit insurance;
- The entity provides at least two hours of annual continuing education courses taught by such entity or an insurer to its employees;
- The entity provides a list of employees who sell, solicits, or negotiate credit insurance; and,
- The entity provides a list of all physical locations where its employees sells, solicits, or negotiates credit insurance on its behalf.

Banks are reminded that the liability for violating any of these provisions shifts from the employee to the employer. Any revocations, suspensions, or probationary requirements may be issued on the Bank itself, not the individual employee.

While the majority of the bills that we have tracked this session passed in some form or another, there were a few bills that we successfully dodged that were very controversial for one reason or another during the session. Those bills are detailed below:

[SB 86—Foreclosure Confirmation Waiver Prohibition](#), by Sen. Jesse Stone (R), Waynesboro. Enough questions were raised during testimony at the Senate Judiciary Committee that no action was taken on this bill. Many thanks to the following people that joined us in providing testimony on the bill: Rick Drews, CEO of Century Bank of Georgia; Clark Hungerford, President of Vinings Bank; Bret Thrasher, Partner with Thompson O’Brien; John Sillay of James-Bates-Brannan-Groover-LLP; and Joe Brannen with Georgia Bankers Association.

[HB 353—Title Pawn](#), by Rep. Brett Harrell (R), Snellville. This bill relates to pawnbrokers and liens by pawnbrokers, factors, bailees, acceptors, and depositories, respectively, so as to provide for fixed term pawn transactions for loans involving the pledge of a motor vehicle or a motor vehicle certificate of title as security.

[HB 523—Industrial Loans](#), by Rep. Brian Strickland (R), McDonough. This bill would prohibit the issuance of a license to issue industrial loans within a certain distance from a military base or installation; require certain disclosures related to insurance premiums on industrial loans in certain instances; prohibit persons engaged in the business of making industrial loans from issuing payment instruments which create a loan contract upon redemption, unless a previous contract has been entered into between the two parties.

[HB 902—Georgia Small Consumer Finance Loan Act](#), by Rep. Earl Ehrhart (R), Powder Springs. This bill relates to banking and finance, so as to transfer duties, powers, responsibilities, and other authority relative to industrial loans from the Industrial Loan Commissioner to the Department of Banking and Finance. While CBA did not oppose the bill, many parties did. The one issue that we focused on with members of the House Banks and Banking Committee was making sure the Department received designated funds if this transfer were to occur.

OTHER LEGISLATION WE ARE TRACKING THAT HAD ACTIVITY THIS WEEK

[HB 93—Sales and Use Tax](#), by Rep. John Corbett (R), Lake Park. The language of [SB 432—Georgia Tax Credit Business Case Act](#), by Sen. John Albers (R), Alpharetta was inserted into this bill. The bill was passed by the Senate with a vote of 49-0 on March 23rd. The House agreed to the changes made in the Senate with a vote of 163-1; however, they inserted language into the bill that would provide commercial bank data centers a tax break. The bill went back to the Senate and the Senate disagreed with the floor amendment by the House. Both the House and Senate insisted on their positions, therefore a conference committee was assigned in both chambers. The conference committee did not provide a conference committee report for adoption. As a result, the bill died.

[HB 185—Probate Court](#), by Rep. Christian Coomer (R), Cartersville, was placed on the Senate Rules Calendar for Tuesday, March 27th; however, the bill was tabled. The Senate did not take any further action on the bill. As a result, the bill died.

[HB 190—Marriages](#), by Rep. Meagan Hanson (R), Brookhaven, was placed on the Senate Rules Calendar for Tuesday, March 27th. The bill was passed by the Senate with a vote of 53-0 on March 27th. The House agreed to the changes made in the Senate with a vote of 165-0. The bill now goes to the Governor for signature.

[HB 327—Alternative Ad Valorem Tax on Motor Vehicles](#), by Rep. Shaw Blackmon (R), Bonaire, was placed on the Senate Rules Calendar for Tuesday, March 27th; however, the bill was tabled. The Senate did not take any further action on the bill. The language from this bill was inserted into [HB 329—Income Tax](#), by Rep. Jay Powell (R), Camilla. HB 329 went to a conference committee on March 29th since neither the House nor the Senate could agree on the final

version. The conference committee was adopted by both the House and the Senate. The bill now goes to the Governor for signature.

[HB 357—Georgia Uniform Certificate of Title for Vessels Act](#), by Rep. Ron Stephens (R), Savannah, was placed on the Senate Rules Calendar for Tuesday, March 27th. The bill was passed by the Senate with a vote of 46-3. The House did not take action to agree or disagree to the changes made in the Senate. As a result, the bill died.

[HB 381—Abandoned Mobile Home Act](#), by Rep. John Corbett (R), Lake Park. The House agreed with changes made in the Senate with a vote of 164-0 on March 29th. The bill now goes to the Governor for signature.

[HB 410--Estoppel Letters](#), by Rep. Alan Powell (R), Hartwell, was passed by the Senate with a vote of 45-5 on March 23rd. The House agreed to the changes made in the Senate with a vote of 155-3 on March 29th. The bill now goes to the Governor for signature.

[HB 441—Self-Settled Spendthrift Trusts](#), by Rep. Barry Fleming (R), Harlem. Last week, we incorrectly reported that the House adopted the changes made in the Senate and the bill was going to the Governor for signature. The House actually agreed to the changes, but also made a floor amendment to the bill. Therefore, the Senate was required to take action. The Senate agreed to the changes made in the floor amendment by the House with a vote of 43-6 on March 29th. The bill now goes to the Governor for signature.

[HB 729—Ad Valorem Taxes](#), by Rep. Brett Harrell (R), Snellville, was placed on the Senate Rules Calendar for Tuesday, March 27th; however, the bill was tabled. The bill was taken from the table and the bill was passed by the Senate with a vote of 51-0 on March 29th. The House agreed to the changes made in the Senate with a vote of 163-0. The bill now goes to the Governor for signature.

[HB 775—Professions and Businesses](#), by Rep. Alan Powell (R), Hartwell, was placed on the Senate Rules Calendar for Tuesday, March 27th; however, the bill was tabled. The Senate did not take any further action on the bill. As a result, the bill died.

[HB 818—Insurance](#), by Rep. Lee Hawkins (R), Gainesville, was placed on the Senate Rules Calendar for Tuesday, March 27th. The bill was passed by the Senate with a vote of 49-0. The bill will now go to the Governor for signature.

[HB 834—Landlord and Tenant](#), by Rep. Mandi Ballinger (R), Canton, was on the Senate Rules Calendar for Friday, March 23rd; however, the Senate did not take up this bill. The bill was re-scheduled on the Senate Rules Calendar for Tuesday, March 27th. The bill was passed by the Senate with a vote of 54-0. The House agreed to the changes made in the Senate with a vote of 166-0 on March 29th. The bill now goes to the Governor for signature.

[HR 993—Business Courts](#), by Rep. Chuck Efstoration, (R), Dacula, has been placed on the Senate Rules Calendar for Tuesday, March 27th; however, the resolution was tabled. The resolution was taken from the table and the resolution

was passed by the Senate with a vote of 46-7 on March 29th. The House agreed to the changes made in the Senate with a vote of 120-52 on March 29th. Now, it will be up to the people of Georgia to determine via Constitutional Amendment as to whether or not Georgia needs a Business Court.

[HR 1317—House Study Committee on Reforming Real Property Taxation](#), by Rep. Andrew Welch, (R), McDonough, was passed by the House with a vote of 168-1 on March 27th.

[SB 194—Garnishments](#), by Sen. Jesse Stone (R), Waynesboro. The Senate agreed to the changes made in the House with a vote of 45-0 on March 29th. The bill now goes to the Governor for signature.

[SB 315—Computer Crimes](#), by Sen. Bruce Thompson (R), White, was passed by the House with a vote of 107-63 on March 27th. The Senate agreed to the changes made in the House with a vote of 42-7 on March 29th. The bill now goes to the Governor for signature.

[SB 338—Administrative Procedures](#), by Sen. William Ligon, Jr. (R), Brunswick, was passed by the House with a vote of 173-0 on March 27th. The Senate disagreed to the changes made in the House. The House receded from its position on the amendment/substitute with a vote of 150-16. The bill now goes to the Governor for signature.

[SB 376—Identity Theft](#), by Sen. David Shafer (R), Duluth, was amended in the House Rules committee to include language similar to language in [SB 465—Interest and Usury](#), by Sen. Ellis Black (R), Valdosta. While CBA was opposed to the language in SB 465, the language was tweaked in its current form to alleviate our concerns. The language allows banks that operate under a territory of the United States to be an issuer of letters of credit. The bill was passed by the House with a vote of 168-1 on March 29th. The Senate agreed to the changes made in the House with a vote of 51-0. The bill now goes to the Governor for signature.

LEGISLATION THAT *DID NOT* MAKE IT OUT OF COMMITTEE AFTER CROSS OVER DAY

[HB 162—Setoff Debt Collection](#), by Rep. Betty Price (R), Roswell.

[HB 866—Commerce and Trade](#), by Rep. Scot Turner (R), Holly Springs.

[HB 826—Law Enforcement](#), by Rep. Geoff Cauble (R), Stockbridge.

[SB 358—Establishment of Banking Improvement Zones](#), by Sen. Michael ‘Doc’ Rhett (D), Marietta.

FINAL COMMENTS

Many thanks to **James-Bates-Brannan-Groover-LLP**, CBA's General Counsel, for providing insight during this session on various legislative items and for being the exclusive sponsor of our *Legislative Updates*. We hope that you will be able to join us at our [Spring Regional Luncheon Meetings](#) where we will discuss various bills that passed and their impact to your institution as part of our Bankers Only Peer Group Meeting.

Community Bankers Association of Georgia

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