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No. 10-09

STATE LEGISLATION UPDATE

It was a successful week in the legislature for TBA and its three bills dealing with trust laws!!

SB 3529 / HB 3863 passed unanimously in the House Monday night and is on the Senate's Monday night consent calendar. This legislation would allow married couples to avoid paying federal capital gains taxes in certain situations by transferring their property to trusts that treat it as community property.

SB 3522 / HB 3861 has already passed in the Senate and is scheduled on the House Judiciary Committee's calendar next Tuesday. This legislation, with three amendments already passed, makes various corrections and updates to Tennessee's trust laws.

SB 3045 / HB 3862 is ready for the Governor's signature as it has passed unanimously in both the House and Senate. This bill addresses the lack of federal estate taxes during 2010 and the problems it is creating with certain wills and trusts.

Next Week in the Legislature. As this successful week is coming to an end, next week is quickly approaching and it looks like it's going to be a busy one! The following is a list of bills scheduled on next week's calendar, all of which TBA opposes:

- **Fee Disclosures - SB 3368 (Marrero) / HB 3706 (Towns):** Requires institutions regulated by the Commissioner of the Dept. of Financial Institutions to have written explanations that clearly explain all fees assessed to customers.
*House Utilities & Banking Subcommittee on Tuesday

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- **NSF Limits - HB 3707 (Townes)**: Limits the handling charge on insufficient funds to the amount of the insufficient check, draft, or charge, not exceeding \$30.
*House Utilities & Banking Subcommittee on Tuesday.
- **Prompt Pay Act Liability - SB 3604 (Ketrone) / HB 3159 (Curtiss)**: Makes banks subject to the Prompt Pay Act, including provisions related to retainage being withheld from contractors.
*Senate Commerce, Labor & Agriculture Committee on Tuesday.
- **Credit Unions - SB 3710 (Haynes) / HB 3390 (Moore)**: Redefines “public depository” to include credit unions so that credit unions could accept county government funds.
*House Local Gov’t Subcommittee on Wednesday
**TBA is strongly opposed to this legislation - see the Action Alert below
- **Appraisal Management Companies - SB 3155 (Overbey) / HB 3191 (Mumpower)**: Requires appraisal management companies to register with, and be regulated by, the Commissioner of the Department of Commerce and Insurance.
*Senate Gov’t Operations Committee on Wednesday

Mortgage Insurer Seeks Licensure in Tennessee. Essent Guaranty, Inc. is a new national provider of private mortgage insurance. The company is the only newly capitalized entrant in its industry in over ten years (currently, there are only six nationwide), and is licensed in 45 states and seeking licensure in the remaining jurisdictions in 2010. Essent is a member of the Essent Group, Ltd. family of companies, which has \$500 million in invested and committed equity funding from a diverse group of financial services investors with experience in mortgage finance, insurance and reinsurance, including, among others, Goldman Sachs and J.P. Morgan.

Because Tennessee law requires non-domestic insurers to have been in business for three years before they are eligible for a certificate of authority to do business in the state, the Department of Commerce and Insurance can not even consider Essent’s application. Thus, to obtain licensure in Tennessee, Essent has to first change Tennessee law, which it proposes to do in **SB 1396 (Jackson) / HB 1415 (Sargent)**.

Essent’s proposed legislation would grant the Commissioner of Commerce and Insurance permission to waive the 3-year seasoning requirement if it is in the public interest. The bill would not, however, affect or alter any other requirement necessary for an insurance company to obtain a certificate of authority to transact insurance business in this state.

Because mortgage insurance plays an important role in the housing finance industry, we are bringing this to your attention. If you have any comments or feedback, please contact Tim Amos, Colin Barrett, or Amy Smith at TBA’s office.

*****ACTION ALERT*******Credit Unions to Accept Public Deposits**

We urge you to contact members of the House Local Government Subcommittee to express your opposition to SB 3710 / HB 3390, which would allow credit unions to accept government funds. The bill came from the County Trustees who want to change current law so credit unions could hold their deposits. We believe their main reason for wanting the change is because credit unions can offer a slightly higher interest rate than banks – mainly because they do not pay taxes like banks do. The Committee members are as follows: Larry Miller, Chair – 615-741-4453; Eric Swafford, Vice-Chair – 615-741-2343; Jim Cobb – 615-741-1450; Ulysses Jones – 615-741-4575; Bob Ramsey – 615-741-3560; Harry Tindell – 615-741-2031; Curry Todd – 615-741-1866; Ben West – 615-741-6959.

SENATE NEGOTIATIONS CONTINUE FOR REG REFORM

As you are probably aware (unless you've been hiding under a rock), there's been some chatter recently about negotiations on financial regulatory reform. Last week it was Senate Banking Committee Chairman Chris Dodd (D-Conn.) negotiating primarily with Senator Bob Corker (R-Tenn.), who took over after negotiations between Dodd and Sen. Richard Shelby (R-Ala.), the Committee's ranking member, fell through.

Well, Shelby re-entered the picture this week and new proposals and agreements amongst the three seemed to come everyday. On Monday, Corker and Shelby rejected Dodd's proposal to create a Bureau of Financial Protection inside the Treasury Department, instead of a stand-alone CFPB, that would have a presidentially appointed directed and rulewriting authority (Corker and Dodd opposed the rulemaking authority – but not necessarily the concept of a division under Treasury).

On Tuesday, Dodd and Corker were reported to be nearing a deal to create a consumer protection agency within the Federal Reserve that would have a presidentially approved director, an independent budget and autonomous rule-writing authority. Dodd and Corker contacted other committee members to gauge their support for the proposal and while some said the plan may offer the best opportunity for a bipartisan deal, House Financial Services Committee Chairman Barney Frank (D-Mass.) said he wouldn't ask the House to pass a bill that included such a plan. And, there were also reports that Shelby proposed, apparently unsuccessfully, two alternatives that would create a Consumer Protection Division within the FDIC or a consumer-protection council within the FDIC.

By Wednesday, Dodd and Corker were reportedly in broad agreement on their proposal to create an agency within the Fed that would have autonomous rule-writing authority and would allow banking regulators to enforce the new rules. But among the remaining issues, Dodd and Corker had still not agreed on whether the new agency could impose rules over the regulators' objections, and how broadly the rules would apply to nonbanks. As of this morning, there have not been any reports on whether they reached an agreement on these issues, so it looks like we will just have to be patient and wait til...well, hopefully soon...to see what the final reg reform legislation looks like.

HOUSE TRIO CONTINUES TO PUSH FOR INCREASING CREDIT UNION BUSINESS LENDING CAP

Reps. Paul Kanjorski (D-Pa.), Ed Royce (R-Calif.), and Marcy Kaptur (D-Ohio) are continuing to seek signatures on a letter to House leadership supporting legislation (H.R. 3380, S. 2919), which would raise the credit union business lending cap and increase the size of exempt loans. The letter asks that the legislation be included in any future jobs-creation bill the House considers.

On Wednesday, ABA urged House Speaker Nancy Pelosi (D-Calif.) and Minority Leader John Boehner (R-Ohio) to oppose the bill and to oppose efforts to include the measure in any future jobs legislation. ICBA and TBA are also strongly opposed to the bill, which calls for increasing the business lending cap from 12.25 percent of a credit union's total assets to 25 percent and raising the business-loan de minimis level to \$250,000.

We encourage you to contact your House member to express opposition to the credit union provisions and urge him/her not to co-sign the letter. For talking points and a link to email your House member, click <http://www.tnbankers.org/home?id=68929>.

FED BANKS COMPLETE CHANGES IN CHECK PROCESSING

The Federal Reserve Banks completed changing the infrastructure of check-processing operations to reduce paper-check processing. Since late-2003, the banks have reduced the number of locations where paper checks are processed, with all checks now being processed at the Cleveland Federal Reserve Bank. The changes were made in response to the shift away from paper checks toward electronic payments. The Fed said that almost 99 percent of the images now processed by Fed Banks are processed as images.

FED VICE CHAIR TO STEP DOWN IN JUNE

Federal Reserve Board Vice Chairman Donald Kohn announced that he will resign on June 23, the day his term as vice chair ends. Kohn, 67, whose Fed career spans 40 years, has been a board member since August 2002 and has served as vice chairman since June 2006. President Obama now has three Fed vacancies to fill, including two of seven governor positions that have been open since before he took office. The president is expected to nominate a replacement for Kohn before he leaves

ABA GOVERNMENT RELATIONS SUMMIT

Senate Banking Committee member Evan Bayh (D-Ind.), Federal Reserve Governor Betsy Duke and Cleveland Federal Reserve Bank President Sandra Pianalto are the latest VIP's to join the lineup of speakers at ABA's Government Relations Summit, March 16-18 in Washington, D.C. Other speakers include FDIC Chairman Sheila Bair, Senate Banking Committee ranking Republican Richard Shelby (R-Ala.), House Majority Leader Steny Hoyer (D-Md.), House Minority Leader John Boehner (R-Ohio), Comptroller of the Currency John Dugan and Office of

Thrift Supervision Acting Director John Bowman. Attendees also will hear a panel of journalists discussing media coverage of the banking industry

Hundreds of bankers have already registered for what is shaping up to be the most important meeting of banking industry leaders in years. We strongly encourage you to attend this free event and bring other bankers, employees or directors to help advocate for our industry. For more information, click <http://www.aba.com/Events/GRS.htm>.

ICBA NATIONAL CONVENTION

Community bankers still have time to register for ICBA's 2010 National Convention and Techworld, March 17-21 at the Gaylord Palms Resort and Convention Center in Orlando, Florida. With more than 60 workshops and over 215 vendors specializing in community banks, ICBA is guaranteeing a positive return on investment. In fact, ICBA will refund your registration fee if you are not 100 percent satisfied. <http://www.icba.org/convention/>

YOUNG BANKERS DAY ON THE HILL SCHEDULED FOR MARCH 24

TBA's Young Bankers Day on the Hill program is scheduled for Wednesday, March 24, 2010. This annual gathering will allow future leaders from banks across the state to explore the inner workings of the Tennessee legislature and listen to speakers representing a wide variety of roles in the legislative process. Participants will also receive briefings on legislative issues pertinent to the banking industry and the importance of TBA's government relations program. Participants will also have an opportunity to visit with their legislators and watch committee meetings and floor sessions of the Senate and House.

Bank CEO's are encouraged to recommend future leaders within their banks to attend. The \$35.00 registration fee includes informational materials and lunch sponsored by the law firm of Bone McAllester Norton PLLC. For those driving in the night before, rooms are being held at the Doubletree Hotel at a special rate. To make reservations, call 1-800-222-8733 and mention that you are with the Tennessee Bankers Association.

Space is limited for this program, so please register your young bankers today! For more information, please contact Penny Powlas (ppowlas@tnbankers.org) or visit TBA's website at www.tnbankers.org.