



MBAAL STATE HOUSE UPDATE

Weekly Recap: 2019 Regular Session *(April 19, 2019)*

House Bill 419, the Financial Institution Excise Tax Reform Act, was amended and favorably reported by the House Ways & Means – General Fund Committee on Wednesday. Thanks to the good work of the bill’s sponsor, **Rep. Kyle South (R-Fayette)**, committee members had no questions about the 33-page bill, which passed with unanimous bi-partisan support. The amendment was a technical fix related to credit unions.

As a reminder, the FIET Reform Act:

1. Uses the federal definition of “taxable income” as the base calculation for the FIET;
2. Repairs constitutional defects related to deductions allowed for subsidiary entities;
3. Reduces administrative burdens on financial institutions filing consolidated returns;
4. Changes the tax distribution formula from location-based to population-based; and
5. Mirrors FIET and federal income tax filing dates and payment schedules.

Generally speaking, there are three issues that are still on everyone’s radar relative to this legislation. First, the impact of the legislation on credit union taxation is largely unknown. Second, there is some concern about how the change in revenue distribution – going from a metric based on where revenue was earned to a metric based purely on population – will impact cities and counties. Third, there has been a lot of discussion about whether some of the taxpayer-friendly provisions of the FIET Reform Act could, or should, apply to corporate income taxpayers (whether they should or not is up to others, but, if so, they will need to be included in a separate bill).

The legislation can be viewed [here](#). The legislation is now in position to be considered on the House floor.

The following is a brief summary of other bills that impact Alabama’s financial services industry.

House Bill 101 by **Rep. Kerry Rich (R-Albertville)** and **Senate Bill 54** by **Sen. Shay Shelnett (R-Trussville)** adopts the National Association of Insurance Commissioners’ Insurance Data Security Law. Federal data security regulations already apply to financial institutions, including to those institutions’ insurance-related subsidiaries. To ensure that this legislation did not also apply to those entities, an amendment exempting financial institutions was added to this bill in both the House and Senate. Both bills have passed out of their houses of origin. The House bill was referred to the Senate Banking and Insurance Committee, while the Senate bill was referred to and passed out of the House Technology and Research Committee. It could pass the House as early as Tuesday.



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House Bill 139 by **Rep. K.L. Brown (R-Jacksonville)** would require a lender that holds all or part of a payment for an insurance claim to, upon request by the insured for payment, either issue the payment or provide a detailed notice of why the payment is being withheld and the steps the insured needs to take for the payment to be released. As currently written, the lender would have 10 days to provide information to the insured or risk paying 20 percent interest on any insurance proceeds held by the lender. This legislation is in response to issues that arose in the aftermath of the tornadoes that impacted Jacksonville and the surrounding areas last May. MBAAL is in discussion with the sponsor and other interest groups, such as the Homebuilders Association of Alabama, about the legislation and hopes a compromise can be reached, especially with respect to the timelines and interest rate. The association, working with the Homebuilders Association of Alabama, amended this bill in the House Insurance Committee this week. The amendment increases the notice period to 14 days, decreases the interest rate to 10 percent, and makes clear that financial institutions retain all rights under current law and under agreements with homeowners, including the right to retain insurance proceeds when distributing them is economically unfeasible.

House Bill 162 by **Rep. Chris Blackshear (R-Phenix City)** and **Senate Bill 127** by **Sen. Shay Shelnutt (R-Trussville)** is the Future Advance Mortgage Protection Act. As introduced, the bill would make clear that future advance mortgages are created upon their execution and not, as the state Supreme Court has ruled, when funds are actually advanced. Discussions with the Homebuilders Association of Alabama resulted in additional language being added to the bill to provide clarity on the subject of lien priority for obligatory or optional future advances. A committee substitute to these bills was adopted in the House and Senate last week. Conventional wisdom would hold that the Supreme Court's ruling from March 29 leaves banks in a better position than these pieces of legislation, meaning these bills will likely not advance any further.

Senate Bill 189 by **Sen. Linda Coleman-Madison (D-Birmingham)** increases the fee to record mortgages from 15 cents to 20 cents per \$100 of indebtedness. The increased revenue would be distributed mostly to the Housing Trust Fund (2 cents) and to the State General Fund (2 cents), with the remaining one cent being distributed equally divided between Probate Judges and the counties. This same proposal has been introduced during the past few sessions and, not surprisingly, has been met with some resistance. Sen. Coleman-Madison carried the bill over this past week, noting that, as a tax bill, it should have been introduced in the House and not the Senate.

As of the end of the eleventh legislative day, legislators have introduced 793 bills – 482 in the House and 321 in the Senate – and 158 resolutions. So far, 21 of these measures have been enacted

into law. The 2019 Regular Session can last for no more than thirty legislative days and must end on or before June 17th.