



MBAAL STATE HOUSE UPDATE

Weekly Recap: 2019 Regular Session (*May 10, 2019*)

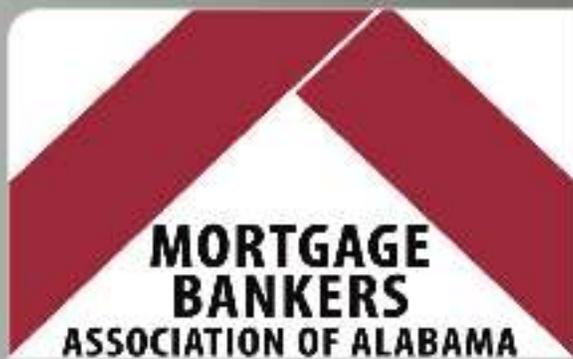
The banking industry enjoyed a productive few days at the State House this week.

For example, House Bill 304 by **Rep. Merika Coleman (D-Birmingham)** is now in position to be voted on by the full Senate, after which it will be in position to be signed into law by Governor Ivey. This legislation allows certified real estate appraisers to perform real estate evaluations where permitted by federal law and was reported by the Senate Banking and Insurance Committee on Tuesday. And Senate Bill 106 by **Sen. Andrew Jones (R-Centre)** is now in position to be voted on by the full House, after which it will also head to the Governor's desk. This bill allows members of the U.S. Armed Forces to contract with a financial institution for a loan or bank account and was reported by the House Financial Services Committee on Wednesday.

But the biggest hurdle jumped this week related to House Bill 419, known as the Financial Institution Excise Tax Reform Act. Sponsored by **Rep. Kyle South (R-Fayette)**, the bill was 12th on a 17-bill calendar adopted by the House on Tuesday. Unfortunately, the House adjourned after passing the 8th bill on the calendar. Thankfully, **Speaker Mac McCutcheon (R-Monrovia)** selected the bill to be at the top of the House calendar on Wednesday.

Thanks to the work of the bill's sponsor, House Bill 419 passed the House of Representatives by a final vote of 98-0. Rep. South was able to add the committee amendment as well as an agreed-upon floor amendment with little debate and no controversy. For a bill as complicated as FIETRA, the process on the House floor could not have gone smoother.

The bill was sent to the Senate later on Wednesday afternoon and was referred to the Senate Banking and Insurance Committee. Committee chairman **Sen. Shay Shelnett (R-Trussville)** has not only agreed to manage the legislation in the upper chamber but also called a committee meeting next Tuesday for the sole purpose of taking a vote on House Bill 419. We hope the Senate committee will view the bill as favorably as their House colleagues and put the legislation in a position to be considered by the full Senate.



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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. With the amendment intact, Senate Bill 54 was signed into law last week.

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 was successful in adding an amendment that 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. The bill passed out of Senate committee this week (with the amendment intact) and is now in a position to be considered by the full Senate..

House Bill 162 by **Rep. Chris Blackshear (R-Phenix City)** and **Senate Bill 127** by **Sen. Shay Shelnett (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.



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House Bill 487 by **Rep. Neal Rafferty (D-Birmingham)** and **Senate Bill 189** by **Sen. Linda Coleman-Madison (D-Birmingham)** increases the mortgage recording fee by 33%, from \$150 to \$200 on every \$100,000 of indebtedness. The legislation also changes how the fee revenue would be distributed by providing that a portion of the revenue would be allocated to the Housing Trust Fund, which the Legislature established (but never funded) in 2012 for the purpose of distributing housing grants throughout the state. The Alabama Association of Realtors, the Homebuilders Association of Alabama, and the Alabama Bankers Association, as well as this association, stand in opposition to this legislation and will continue to work against its passage.

Senate Bill 359 by **Sen. Clay Scofield (R-Arab)** creates the Online Notary Act. The bill would provide for the Secretary of State to commission any notary public as an online notary public and adopt rules for the implementation of online notarization. This bill would provide for electronic methods to carry on the same basic functions and powers of existing notaries public and provide for criminal penalties for any violation under the provisions of the act. This bill has not yet been placed on a committee agenda, but that is expected to happen soon. At this late date, however,

As of the end of the eighteenth legislative day, legislators have introduced 1,000 bills – 601 in the House and 399 in the Senate – and 287 resolutions. So far, 131 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.

The Legislature will reconvene for its nineteenth legislative day on Tuesday, May 14.
