**New Virginia Laws Affecting Banking**

A host of new and amended Virginia statutes took effect July 1, 2016. Here are a few that will be of interest to bankers.

**Repeal of superfluous mortgage disclosure.** Section 6.2-406 of the Code of Virginia (the “Code”) was amended to repeal a provision that required mortgage lenders to disclose that all loan terms not legally locked in were subject to change until settlement. The requirement was repealed because it was determined to be unnecessary in light of abundant federal mortgage disclosure requirements.

**Mortgage lender and mortgage broker licenses.** Sections 6.2-1607 and 6.2-1610 were amended to provide that mortgage lender and mortgage broker licenses will expire at the end of each calendar year unless renewed prior to the expiration date. Such licenses will no longer be required to be posted in the licensee’s office, but must be provided upon request and the licensee must display the telephone number and website address for the Virginia State Corporation Commission (“SCC”) where borrowers can confirm the licensee’s license.

**Mortgage loan originator licenses.** Section 6.2-1712.1 was amended to authorize the SCC to issue an inactive mortgage loan originator license to an individual who has satisfied all requirements for licensure except obtaining a surety bond. A licensee with an inactive license is prohibited from engaging in the business of a mortgage loan originator until the SCC determines that the bonding requirement has been satisfied.

**Reporting financial exploitation of older or incapacitated adults.** Section 63.2-1605 was amended to require the department of social services to refer reports of adult financial exploitation involving more than $50,000 to local law-enforcement agencies for investigation.

**State agency to study financial exploitation of adults.**  House Bill 676 directs a state agency to form a committee to study the issues involved in identifying, reporting, investigating and preventing financial exploitation of adults. The committee is to present its findings and recommendations to the Governor and the General Assembly. The Virginia Bankers Association will actively participate to educate study participants and legislators about the safeguards banks maintain to protect elderly and disabled customers from financial abuse.

**Limited credit union mergers.** Section 6.2-1344 was amended to authorize the merger of Virginia state-chartered credit unions with different fields of membership if (i) one of the merging credit unions has fewer than 35,000 members and (ii) neither merging credit union has been a party to a merger pursuant to this exemption within the preceding 24 months.

**ABLE savings trust accounts not counted for state benefits eligibility testing.** Section 23-38.81 was amended to provide that Achieving a Better Life Experience (“ABLE”) savings trust accounts will be disregarded for purposes of determining an individual’s eligibility to receive state assistance and benefits. Tax exempt ABLE savings trust accounts were established by legislation in 2015 to facilitate saving for qualified expenses of individuals who were disabled or blind prior to the age of 26.

**Annual cap on bank franchise tax payment.** Section 58.1-1204 was amended to set a cap of $18 million on the total annual bank franchise tax liability per taxpayer. The cap will increase to $20 million if at least five taxpayers pay the $18 million cap for three consecutive years. After two years at $20 million, the cap will increase by three percent annually.

**State law references to federal bank regulations updated.** The federal Dodd-Frank Act transferred rulemaking authority under certain federal statutes, such as the Truth in Lending Act and the Electronic Fund Transfers Act, from the Federal Reserve Board to the Consumer Financial Protection Bureau. The Virginia banking statutes were amended in several places to replace references to the obsolete Federal Reserve Board regulations with references to the corresponding new regulations promulgated by the Consumer Financial Protection Bureau.

**Lien for spouse’s emergency medical care.** Section 8.01-220.2 of the Code was amended to provide that a lien arising out of a judgment for one spouse's emergency medical care will not be enforced against the spouse’s principal residence held as tenants by the entireties with the other spouse until the residence is refinanced or transferred to new owners.

**Federal mortgage "closing disclosure" added to Virginia settlement statement statutes.** The Code sections governing mortgage settlement statements were amended to permit real estate settlement agents to deliver a settlement statement or a "closing disclosure" as contemplated by new federal mortgage disclosure requirements.

**Revised calculation of a surviving spouse’s share of a deceased spouse’s estate.** The wills, trusts and estates sections of the Code were amended to provide that a surviving spouse’s elective share of a deceased spouse’s estate will be calculated as a graduated percentage, taking into account both spouses' assets and the length of marriage. This change is consistent with revisions made to the Uniform Probate Code by the Uniform Law Commission.

**Uniform Powers of Appointment Act.** The wills, trusts and estates sections of the Code were amended tocodify the Uniform Powers of Appointment Act, which provides an estate planning tool that permits the owner of property to grant a third party the power to direct the distribution of that property among some class of eligible recipients. The act was adopted by the Uniform Law Commission.

**Voluntary nonsuits toll statutes of limitation and contractual periods of limitation.** Section 8.01-229 was amended to provide that a voluntary nonsuit tolls a statute of limitations and a contractual period of limitation. Banks may want to consider this when drafting limitations periods in contracts.

**Exemption of annuity contracts and life insurance policies from some creditor claims.** Section 38.2-3122 was amended to exempt the cash surrender value or proceeds of any life insurance policy or annuity contract from execution, attachment, garnishment, or other legal process in favor of any creditor of the insured or a beneficiary or owner of the policy or contract. These provisions do not apply to insurance or annuities acquired or assigned in writing for the benefit of a creditor, such as when provided as collateral for a bank loan.

For more information about these and other new Virginia laws affecting banking, contact Mel Tull, VBA General Counsel, at mtull@vabankers.org or (804) 819-4710.

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