VIRGINIA CREDIT UNION LEAGUE

REVIEW OF THE
2019 SESSION
OF THE
VIRGINIA GENERAL ASSEMBLY

PREPARED BY
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Below is a summary of 2019 legislation of interest to credit unions. There are a total of 24 bills, 14 of which passed. Some bills are of direct importance to credit unions, others are only relevant, and a few are included for your background information. Unless noted otherwise, all legislation that has been signed into law, takes effect July 1, 2019.

I. Legislation that Passed

A. Financial Exploitation

1. **HB 1987** Aged or incapacitated adults; financial exploitation, authority to refuse transactions.

*Chief patron: Toscano*

*Summary as passed:*

**Financial exploitation of aged or incapacitated adults; authority to refuse transactions or disbursements.** Authorizes financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds, regardless of whether such staff has reported suspected financial exploitation, if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an aged or incapacitated adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department of social services or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an aged or incapacitated adult. The measure authorizes financial institution staff to continue to refuse to execute a transaction, delay a transaction, or refuse to disburse funds for not more than 30 business days after the date such transaction or disbursement was initially requested on the basis of such a good faith belief, unless otherwise ordered by a court. The measure authorizes such staff, to the extent permitted by law, to report any information or records relevant to an investigation. A financial institution and its staff are immune from civil or criminal liability, absent gross negligence or willful misconduct, for refusing to execute a transaction, delaying a transaction, or refusing to disburse funds pursuant to this measure. This bill is identical to SB 1490 (Obenshain).
Notes: Previous attempts to involve financial institutions in spotting and reporting financial abuse of individual members failed because those bills provided inadequate protection to tellers and other credit union employees from liability. HB1987, however, found success because it was more narrowly drawn and provides clear protection to credit union employees who suspect such abuse.

2. **HB 2225** Financial exploitation of adults; reporting by financial institution staff.

*Chief patron:* O’Quinn

*Summary as passed House:* Financial institutions; reporting by financial institution staff; supporting information and records. Provides that any financial institution staff who suspects that an adult has been financially exploited may provide supporting information and records to the local department of social services or the adult protective services hotline, in addition to reporting such suspected exploitation to such local department or such hotline provided for under current law.

Notes: This legislation is an expansion of current state law which already permits a financial institution staff to report someone who staff believes is being financially exploited to the local department of social services or the adult protective services hotline. This change now specifically allows staff to also provide supporting data and records to the local department or hotline. The changes in Virginia are consistent with provisions of the Senior Safe Act passed by Congress in 2018.

3. **SB 1224** Protective services; adult abuse and exploitation, multidisciplinary teams.

*Chief patron:* Chafin

*Summary as passed:* Protective services; adult abuse, neglect, and exploitation; multidisciplinary teams. Authorizes local departments of social services to foster, when practicable, the
creation, maintenance, and coordination of hospital and community-based multidisciplinary teams focused on the abuse, neglect, and exploitation of adults 60 years of age or older or 18 years of age or older who are physically or mentally incapacitated. The bill provides that such teams may: (i) assist the local department of social services in identifying abused, neglected, and exploited adults; (ii) coordinate medical, social, and legal services for abused, neglected, and exploited adults and their families; (iii) develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of adults; (iv) promote community awareness and action to address adult abuse, neglect, and exploitation; and (v) disseminate information to the general public regarding the problem of adult abuse, neglect, and exploitation, strategies and methods for preventing such abuse, neglect, and exploitation and treatment options for abused, neglected, and exploited adults. The bill also allows the attorney for the Commonwealth in each jurisdiction to establish a multidisciplinary adult abuse, neglect, and exploitation response team to review cases of abuse, neglect, and exploitation of adults. Such multidisciplinary team may be established separately or in conjunction with any already existing multidisciplinary team. This bill is identical to HB 2560 (Pillion).

03/22/19 Governor: Approved by Governor-Chapter 775 (effective 7/1/19)
03/22/19 Governor: Acts of Assembly Chapter text (CHAP0775)

Notes: This bill does not affect financial institutions, but it is a further illustration of the growing societal awareness of the problem of the exploitation, abuse or neglect of the elderly as well as those mentally incapable. Local interdisciplinary teams, referred to in the above summary, as constituted by local social services or Commonwealth Attorneys could include representatives from the financial services community.

B. Creditor/Debtor Rights; Mortgages/Security Interests

1. HB 2109 Guaranteed asset protection waivers; establishes requirements for offering waivers, etc.

   Chief patron: O’Quinn

   Summary as passed:

   Guaranteed asset protection waivers. Establishes requirements for offering guaranteed asset protection (GAP) waivers, which are agreements, entered into as a part of or addendum to a motor vehicle financing agreement, under which the creditor agrees for a separate charge to waive or cancel amounts due on the finance agreement if the financed motor vehicle is totally damaged or stolen. The measure requires the creditor to insure its GAP waiver obligations; prohibits a creditor from conditioning
an extension or term of credit on the purchase of a GAP waiver; requires a GAP waiver to include disclosures regarding the cancellation of the GAP waiver during a free look period; and establishes requirements and restrictions for the cancellation of GAP waivers, including refund provisions. The measure provides that GAP waivers are not insurance and are exempt from Virginia's insurance laws. This bill is identical to SB 1325 (Chafin).

03/25/19 Governor: Approved by Governor-Chapter 799 (effective 7/1/19)
03/25/19 Governor: Acts of Assembly Chapter text (CHAP0799)

Notes: At the League’s request, this bill was amended to specifically exempt credit unions.

2. **HB 2251** Mortgage loan originators; licensing.

Chief patron: Marshall

Summary as introduced:
**Mortgage loan originators.** Repeals provisions relating to the issuance of transitional mortgage loan originator licenses and replaces them with provisions granting temporary authority to act as a mortgage loan originator. The bill conforms Virginia's law with requirements in the federal Economic Growth, Regulatory Relief, and Consumer Protection Act. The measure also conforms provisions related to the expiration of mortgage loan originator pre-licensure education courses.

03/21/19 Governor: Approved by Governor-Chapter 740 (effective 7/1/19)
03/21/19 Governor: Acts of Assembly Chapter text (CHAP0740)

Notes: This legislation does not apply to credit unions but is included as it was requested by the Bureau of Financial Institutions of the State Corporation Commission to conform state law to new federal provisions pertaining to mortgage loan originators under the Economic Growth, Regulatory Relief and Consumer Protection Act.

3. **HB 2284** Debt management plans, providers of; exempts entities.

Chief patron: Heretick

Summary as introduced:
**Debt management plans.** Exempts banks, savings institutions, and credit unions from Chapter 20 of Title 6.2, which provides for the Bureau of Financial Institution's regulation of agencies that provide debt management plans.
4. **SB 1342** Garage and mechanics’ liens; increases amount of lien.

*Chief patron:* DeSteph

**Summary as passed Senate:**

**Storage and mechanics’ liens; amount of lien.** Provides that the amount of a mechanics’ lien for the reasonable expenses of a keeper of a garage or a mechanic on a vehicle that is not subject to a chattel mortgage, security agreement, deed of trust, or other instrument shall be in an amount up to the value of the vehicle.

03/18/19 Governor: Approved by Governor-Chapter 561 (effective 7/1/19)
03/18/19 Governor: Acts of Assembly Chapter text (CHAP0561)

*Notes:* The patron of this bill accepted our amendment which will continue to cap liens on towed or damaged vehicles at $500 for keepers of garages and $1,000 for alterations or repairs. Our amendment states that if there are no prior security interests or other liens on the vehicle then garage keepers and repair shops’ liens may be in any amount that is deemed reasonable up to the value of the vehicle.

C. **Bankers’ Legislation**

1. **HB 2298** Banks; directors’ meetings.

*Chief patron:* O’Quinn

**Summary as introduced:**

**Banks; directors’ meetings.** Removes the ability of a bank’s shareholders to fix the number that constitutes a quorum for a meeting of the bank’s board of directors at not less than five. In its place, the measure authorizes a bank’s shareholders to adopt a bylaw setting as a quorum a number that is not less than a majority of the bank’s directors. This bill is identical to SB 1272.

03/05/19 Governor: Approved by Governor-Chapter 242 (effective 7/1/19)
03/05/19 Governor: Acts of Assembly Chapter text (CHAP0242)
Notes: This technical bill was introduced by the Virginia Bankers Association to allow a bank’s bylaws and not its shareholders to fix the required number of directors to be present for a quorum, provided that number is not less than a majority of the board. Identical to SB1272 (Sturtevant).

2. **HB 2419** Banks; capital stock.

*Chief patron:* Yancey

*Summary as passed:*

**Banks; capital stock.** Repeals a provision that bars the State Corporation Commission from authorizing a bank to commence business if commissions or other compensation have been paid by the bank for the sale of stock in the bank. The measure also removes the requirement that both organizing directors of a bank be bonded for an amount equal to the total amount of money to be collected before the bank opens for business through stock subscriptions or from purchases of the bank’s stock. This bill is identical to SB 1609 (Saslaw).

03/08/19 Governor: Approved by Governor-Chapter 253 (effective 7/1/19)
03/08/19 Governor: Acts of Assembly Chapter text (CHAP0253)

*Notes:* This bill loosens provisions in the law that may have made it more difficult for banks to acquire the start-up capital to form a new charter.

**D. Transfers of Accounts**

1. **SB 1186** Financial institution; payment or delivery of small asset by affidavit, check, etc.

*Chief patron:* Chafin

*Summary as passed:*

**Payment or delivery of small asset by affidavit; check, draft, or other negotiable instrument; financial institution.** Provides that a financial institution accepting a small asset that is a check, draft, or other negotiable instrument presented for deposit by an affidavit is discharged from all claims for the amount accepted.

03/12/19 Governor: Approved by Governor-Chapter 360 (effective 7/1/19)
03/12/19 Governor: Acts of Assembly Chapter text (CHAP0360)
Notes: This measure clarifies current law, known as the Virginia Small Estate Act, by providing immunity to credit unions and other financial institutions that accept a check or other negotiable instrument made payable to a decedent upon receipt of an affidavit that meets the current eight (8) requirements of Section 64.2-601 of the Code of Virginia.

2. **SB 1307** Uniform Transfers to Minors Act; transfer of property.

*Chief patron:* Edwards

*Summary as introduced:*
**Uniform Transfers to Minors Act; age 25.** Permits a transferor to transfer property under the Uniform Transfers to Minors Act to an individual under the age of 21 to be paid, conveyed, or transferred to such individual upon his attaining 25 years of age, unless the minor attaining age 21 years of age delivers a written request therefor to the custodian. Under current law, such property must be paid, conveyed, or transferred upon the individual’s attaining 18 years of age, or 21 years of age if specifically requested by the custodian.

03/18/19 Governor: Approved by Governor-Chapter 527 (effective 7/1/19)
03/18/19 Governor: Acts of Assembly Chapter text (CHAP0527)

**Notes:** Under current state law, all financial institutions are compelled to turn over to a 21-year old any accounts held by a custodian under the Uniform Transfers to Minors Act if the title of the account includes the parenthetical “(21)”-- otherwise the date that the minor is entitled to the funds in such an account is age 18. Now, for accounts established on or after July 1, 2019, the creator of the custodial account may extend the custodial account until the minor attains the age of 25 if the transferor of the new account expressly adds the parenthetical “(25)” after the words “Virginia Uniform Custodial Act” and if the 21-year old, within a certain prescribed period, does not deliver to the custodian a written request to withdraw the funds sooner.

**E. Other Legislation**

1. **HB 2664** Wage payment statements; each employer to provide on each regular pay date.

*Chief patron:* Aird

*Summary as enacted with Governor’s Recommendations:*
Wage payment statements. Requires each employer to provide on each regular pay date a written statement, by a paystub or online accounting, which shows the name and address of the employer, the number of hours worked during the pay period, and the rate of pay. Currently an employer is required to provide, when requested, a written statement of the employee’s gross wages and any deductions. The measure does not apply to agricultural employment except that an agricultural employer, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom. The measure has a delayed effective date of January 1, 2020. The bill is identical to SB 1696 (Wagner).

04/03/19 House: Enacted, Chapter 836 (effective 1/1/20)
04/03/19 Governor: Acts of Assembly Chapter text (CHAP0836)

Notes: HB2664 passed unanimously and will impact all credit unions in the Commonwealth. The bill will require all businesses (with certain exceptions that don’t apply to credit unions) to provide certain information to employees at the end of each pay period. Unlike most successful bills that have an effective date of July 1, this bill will not become law until January 1, 2020-- to give businesses ample opportunity to get into compliance with the new law. Same as SB1696.

2. **HJ 775** Commending the Northwest Federal Credit Union Foundation.

*Chief patron: Keam*

**Summary as introduced:**
Commending the Northwest Federal Credit Union Foundation.

02/11/19 House: Agreed to by House by voice vote
02/18/19 Senate: Agreed to by Senate by voice vote

II. Legislation that was Defeated

**HB 1760** Student loans; licensing of qualified education loan servicers, civil penalties, report.

*Chief patron: Simon*
Summary as introduced:
**Qualified education loan servicers.** Would have prohibited any person from acting as a qualified education loan servicer except in accordance with provisions established by this bill. The bill requires a loan servicer to obtain a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses. Banks, savings institutions, credit unions, and nonprofit institutions of higher education are exempt from the licensing provisions. Same as SB1112 (Howell), discussed below, which also died in House Committee.

02/05/19 House: Left in Commerce and Labor

**Notes:** This bill, one of several intended to provide regulations for the licensing of service providers of student loans, specifically excluded credit unions.

**HB 2191** Bank franchise; tax credit for student loan refinancing.

**Chief patron:** Rush

Summary as introduced:
**Bank franchise tax credit for student loan refinancing.** Would have provided a credit against the bank franchise tax starting in taxable year 2019 in the amount of 20 percent of a bank’s student loan refinancing expenses. The bill defines eligible expenses to include the amount of principal forgiven by a bank plus the amount of interest reduced by refinancing. The credit is available only for expenses related to the refinancing of privately held loans but not loans held by the federal government.

02/05/19 House: Left in Finance

**Notes:** This bank-sponsored bill would have provided banks a franchise tax break for certain defined expenses relating to the re-financing of student loans. This VBA legislation died in committee.

**HB 2296** Rights of persons w/disabilities; procedure for certain actions, website accessibility of bank, etc.

**Chief patron:** Leftwich

**Summary as passed:**

**Rights of persons with disabilities; procedures for certain actions; website accessibility.** This bill, which the League initiated, would have provided that when a complaint is filed alleging that the website of a bank, trust company, savings
institution, or credit union does not comply with applicable law regarding its
accessibility by the vision impaired or hearing impaired, the action shall be
commenced no sooner than 120 days after the claimant files a written statement of the
nature of the claim. The bill further provides that a website of a bank, trust company,
savings institution, or credit union is in compliance with Virginia’s laws prohibiting
discrimination against people with disabilities if it meets the Web Content
Accessibility Guidelines 2.0 Level AA as developed by the Web Accessibility
Initiative.

05/03/19 Governor: **Vetoed by Governor**

**Notes:** We worked with the bankers in trying to get this bill passed which would have
provided a strong defense for financial institutions receiving demand letters from
plaintiffs’ law firms alleging non-compliance with the disabilities act because of a
visually impaired member of a credit union being unable to engage in online banking
due to website inaccessibility. The bill had a long life-- but fell short when we were
unable to muster enough votes to override a gubernatorial veto. Despite a number of
concessions we made to the disability community and despite the good intentions
behind the bill (to stop extortionist payments to these law firms), it was a difficult
battle, primarily because we were pursuing a state remedy for an alleged violation
under federal law (the ADA). We had excellent arguments but the Governor, sensitive
to protect the disabled, vetoed the measure. An earlier Senate version of this bill,
SB1302 (Barker), died in Senate committee.

**HB 2706 Credit unions; board of directors’ compensation.**

*Chief patron:* Bagby

**Summary as introduced:**

**Credit unions; director compensation.** Would have provided that compensation of
members of a credit union’s board of directors and members of the credit and
supervisory committees, including reimbursement for business-related travel, shall be
determined by a written policy approved by the board of directors. The measure
removes the existing prohibition on compensating members of a credit union’s board
of directors for services as a member of the board.

02/05/19 House: Left in Commerce and Labor

**Notes:** Current Virginia law allows credit or supervisory committees to be
compensated as determined by the credit union’s board of directors. In addition, a
credit union may now provide its directors and committee members accident, health
and term life insurance as well as reimbursement for necessary expenses incurred in
attending regular or special meetings while on official business for the credit union. This measure attempted to expand current law to allow directors to be compensated for their services as board members. However, the bankers strongly opposed the measure and it failed in subcommittee on a 4 to 4 vote. The bankers repeated their argument that credit unions “don’t pay taxes” and that payment of compensation will unfairly create competition with the banks.

**HB 2725** Credit unions; authorizes localities and political subdivisions to hold public deposits.

*Chief patron:* Carter

*Summary as introduced:*

**Credit unions.** Would have authorized localities and political subdivisions to hold public deposits in a credit union. The measure allows localities and political subdivisions to become members of a credit union for purposes of placing deposits in and receiving services from the credit union.

02/05/19 House: Left in Commerce and Labor

*Notes:* This bill was introduced without any forewarning from the delegate who patroned the measure. It was poorly drafted and stood no chance of passage. We will continue to explore different strategies to allow credit unions to hold public deposits. A concerted effort was made in New York in its 2019 legislative session to authorize credit unions to hold such deposits but that measure is the latest example of the bankers’ continued resistance to any change in states’ laws.

**SB 1112** Student loans; licensing of qualified education loan servicers, civil penalties.

*Chief patron:* Howell

*Summary as passed Senate:*

**Qualified education loan servicers.** Would have prohibited any person from acting as a qualified education loan servicer except in accordance with provisions established by this bill. The bill requires a loan servicer to obtain a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses.

02/12/19 House: Failed to report (defeated) in Commerce and Labor (11-Y 11-N)
Notes: This well-intentioned Senate bill, which passed unanimously in the Senate, died in the same House committee that killed HB1760 (above). Its aim was to protect students repaying education loans from those collecting periodic payments by regulating that industry by SCC oversight. If it had passed, credit unions were specifically exempted from its application.

01/30/19 Senate: Passed by indefinitely in Courts of Justice (8-Y 5-N 2-A)