Dear LBA Members:

The 2014 State Regular Session will be remembered by most as the session where Common Core education standards, payday lending reform, and various tort reform measures were the main topics of debate. In the end, very few changes were made on these issues. As for banking specific issues, LBA sponsored four bills that were passed into law that will be helpful to Louisiana banks and thrifts. As usual, the legislation we pursued at the state capitol was approved by your Government Relations Council (GRC) and LBA Board of Directors at our GRC Meeting in January. If you are a GRC Member, but have not attended a GRC meeting in the past, I urge you to attend in the future so your bank’s voice can be heard in our policy-making process.

The LBA sponsored legislation this year included two important bills to reform the bank’s shares tax (state corporate tax paid by banks), a bill to crack down on frivolous patent infringement claims against banks and other businesses by so-called patent trolls, and a measure to protect children and incapacitated adults from identity theft by allowing guardians to place a credit freeze on their behalf with the credit bureaus. See page four of the following report for more information on these bills.

LBA was also proactive in several other areas this session. We were able to further promote the importance of financial literacy by successfully seeking an amendment to a bill that created the new career-option curriculum for high school students that do not intend to go to college. The amendment allows a financial literacy course to satisfy math course requirements. LBA will encourage local school districts to act on this and adopt financial literacy within their curriculum. See page five for more information on this issue (Act 643 by Rep. Jim Fannin). LBA also worked with the credit union industry on legislation that will allow financial institutions to image more documents, and allow such images to be used for purposes of executory process foreclosure. See page five of the report for more information on this issue (Act 440 by Rep. Ed Price).

We also were successful in protecting the banking industry from harmful legislation by either stopping or favorably amending numerous bills of concern throughout the process. There were a few issues we fought this year that we had not previously seen, including an attempt by an insurance company to legislatively dictate the delay periods and draw amounts for banks to follow when disbursing insurance settlement proceeds to a borrower for repair or rebuild of their home, and a bill that would have negatively impacted lenders that finance low-income housing developments. LBA was successful in helping to stop these measures. Legislative Acts that contain LBA supported amendments are mentioned throughout this report, and you will find a description of bad legislation introduced this year that did not pass on pages 22 through 24 of this report.

The LBA government relations team (including Joe Gendron, Director of Government Relations, David Boneno, General Counsel, Ginger Laurent, Chief Operating Officer and myself) stands committed to fervently protecting your interests at the state capitol, and we hope this session report is helpful to your bank in becoming familiar with recent legislative developments. To print an Act simply click on the effective date link contained in the description of each Act throughout the report. You can also go to the Louisiana State Legislature’s website at www.legis.la.gov and under “2014 Regular Session” click on “Bill Search” and enter the relevant Act or Bill number.
If you have questions or need more information on a specific Legislative Act, please contact David Boneno or Joe Gendron at our office. Thanks to the bankers and bank counsel around Louisiana who helped us in our work.

Sincerely,

[Signature]

Robert T. Taylor
Chief Executive Officer
CONTENTS

Bills Enacted Into Law

LBA Initiatives, Banking & OFI Regulated Activity-------------------4
Lending & Collateral---------------------------------------------------10
Notaries---------------------------------------------------------------13
Tax Assessment and Collection------------------------------------------13
Other Bills of Interest-----------------------------------------------14
Bad Bills That Did Not Pass-----------------------------------------22
**BILLS ENACTED INTO LAW**

**LBA INITIATIVES, BANKING & OFI REGULATED ACTIVITY**

**Banks Shares Tax - Negative Earnings Relief**  
**Act 135; Effective 8/01/14**  
SB 99 by Sen. Neil Riser (LBA sponsored) amends the bank's shares tax law to allow negative earnings to be considered. The formula for taxing banks is 80% based on the capital of the bank and 20% based on the net earnings (income). However, the previous law specifically stated that negative earnings were not to be considered in this formula. Therefore, if a bank lost money in a given year, it did not reduce its tax liability. The Act requires that the earnings component include negative earnings and allows any losses to offset tax owed under the capital component of the formula. The Act amends La. R.S. 47:1967(D).

**Banks Shares Tax - Contingent Tax Relief**  
**Act 623; Effective 8/01/14**  
HB 465 by Rep. Chris Broadwater (LBA sponsored) amends the bank's shares tax law to provide that if corporate taxes for non-banks are reduced or repealed, the legislature shall also act to provide commensurate relief for banks from the bank's shares tax. During the 2013 State Legislative Session the Jindal Administration proposed a sweeping tax overhaul that would have repealed state corporate and personal income taxes in favor of higher sales taxes, along with broadening the services subject to sales tax. LBA's major concern with the 2013 proposal was that it did not repeal the bank's shares tax, which banks pay in lieu of state corporate income taxes. Therefore, while the proposal was a "tax swap" for most corporations (i.e. no income taxes in favor of higher sales taxes), for the banking industry the proposal was a pure tax increase. Although the 2013 proposal did not have enough support in the legislature to move, this Act will help put the banking industry in a better position next time tax reform is pursued. The Act enacts La. R.S. 47:1967(H).

**Protection from Patent Trolls**  
**Act 297; Effective 5/28/14**  
SB 255 by Sen. Danny Martiny (LBA Sponsored) makes bad faith patent infringement claims by patent assertion entities (PAEs), otherwise known as patent trolls, an unfair trade practice. The Act enacts new provisions under the state’s unfair trade practices law to create a disincentive for bad faith patent infringement claims by PAEs. Specifically, the Act creates criteria for a state judge to use to determine whether the patent infringement assertion by the PAE via a demand letter is in good faith or bad faith. It provides for an attorney general cause of action against bad faith offenders. Banks and other businesses across the country are receiving demand letters from PAEs alleging that they are using patented technology without a license to use it, and demanding that they purchase a license to use their patent or otherwise compensate them. This important Act should help cut down on bad faith and deceptive claims of patent infringement. The Act enacts La. R.S. 51:1428.

**Identity Theft - Credit Security Freezes for Children**  
**Act 201; Effective 1/01/15**  
HB 844 by Rep. Erich Ponti (LBA Sponsored) allows parents or guardians to put a security freeze on a minor child’s credit with the three major credit bureaus in order to protect them from identity theft. The Act also allows guardians to do the same for an incapacitated adult in their care. Identity thieves have targeted the personal information of children in recent years in order to commit identity theft, which often goes undetected for many years. The Act enacts La. R.S. 9:3571.3.
**Financial Literacy Education**

Act 643; Effective 8/01/14

HB 944 by Rep. Jim Fannin (LBA Supported) creates the curriculum for the high school career-option program for students that do not intend to go to college. At LBA’s request, an amendment was added to allow a financial literacy course to fulfill one of the required math requirements in the career-option curriculum. LBA has long stressed the importance of financial literacy education and done much over the years to promote and improve financial literacy in the state. We will continue to encourage financial literacy education at the local level in primary and secondary schools. The provision regarding the financial literacy education option was amended into La. R.S. 17:183.3(B)(2)(b).

**Electronic Reproductions of Financial Records**

Act 440; Effective 7/01/14

HB 1259 by Rep. Ed Price (LBA Supported) was originally filed on behalf of the credit unions as HB 661. The LBA got involved and provided extensive amendments to the original legislation resulting in the filing of substitute bill, HB 1259. This Act changes the law by expanding a bank’s ability to image certain documents and to be able to use certain reproduced images in executory process foreclosure of mortgage loans. The previous law, with limited exceptions, required that an original promissory note be produced if executory process was used for loan foreclosure. Thus, banks have had to retain original promissory notes and other important documents. The Act amends two of the Code of Civil Procedure articles on executory process (Articles 2636 and 2637), and amends the financial institutions records reproduction statute (La. R.S. 13:3733.1). The Act is a result of a collaborative effort involving members of the LBA Bank Counsel Committee as well as credit union representatives. The Act is expected to enable financial institutions to use images of many of their loan documents. However, please note that financial institutions that use collateral mortgages will still need to retain the original collateral mortgage note. See La. R.S. 13:3733.1(K).

While this Act expands a financial institution’s ability and flexibility to use imaged records, some limitations will continue. One significant limitation involves the need to continue to retain the original collateral mortgage note. The Act does not extend to collateral mortgage notes. The original collateral mortgage note is needed in order to perfect a security interest in a collateral mortgage note as part of the collateral mortgage package. The explanation for this limitation is that Louisiana R.S. 10:9-312(b)(4) requires that a security interest in a collateral mortgage note may be perfected only by the secured party’s taking possession under R.S. 10:9-313. A creditor will need to retain possession of the original collateral mortgage note in order to be certain of its rights.

The following provides more details of how the statutes and articles were amended. The Act amends La. R.S. 13:3733.1(A) to expand the definition of financial institution to include mortgage servicers and loan servicers in the records reproduction statute. This change will clarify that servicers with secondary market mortgage loans will also be able to rely on the imaging statute.

The Act also provides enhanced certification for obligations. Old Section 3733.1(E) required that if a financial institution was going to use a reproduction of a document, it had to prepare a certification to accompany that copy certifying that it was a true and correct reproduction of the original. This Act adds an additional requirement to the certification if the document reproduced is an obligation, such as a promissory note. The additional certification language provides that if the document is an obligation sought to be enforced, the financial institution must certify that it is entitled to enforce the obligation evidenced by the document.

The Act also makes changes to Louisiana Code of Civil Procedure Articles 2636 and 2637 relative to executory process. Article 2636 provides that certain evidence is deemed to be authentic for executory process. Language was added to Article 2636(8) to provide specific cross references to three statutes that recognize evidence as authentic for executory process purposes. One of the cross references is to R.S. 13:3733.1. The other two cross references are to R.S. 9:5555 and R.S. 10:9-629. R.S. 9:5555 provides
that an affidavit submitted to establish the existence, amount, terms, and maturity of the note or other written obligation not evidenced by an instrument paraphed for identification with the act of mortgage or privilege is deemed authentic evidence, and R.S. 10:9-629 establishes certain UCC-9 secured transaction documents as authentic evidence.

Language was amended in Article 2637(C) of the Louisiana Code of Civil Procedure clarifying that it applies to all conventional mortgages or security interests that secure multiple or future indebtedness. Article 2637(C) previously referred only to collateral mortgages and security interests. Article 2636(C) was also amended to clarify that evidence of the actual indebtedness may be proved by an affidavit submitted with the original or supplemental petition. In light of the changes being made to R.S. 13:3733.1 to allow for the use of reproductions of records, Article 2637(C) was amended to allow the attachment of a reproduction that is certified, as an alternative to attaching as an exhibit the original note, bond, handnote or other evidence representing the actual indebtedness.

A new paragraph (F) was added to Article 2637 providing that a proper-party plaintiff entitled to enforce the obligation represented by a reproduction may be proved by verified original or supplemental petition, or by an affidavit attached to the petition or supplemental petition. The Act amends La. R.S. 6:667.3, R.S. 13:3733.1(A)(1), (E), and (G), and Code of Civil Procedure Articles 2636 and 2637(A) and (C), and enacts R.S. 13:3733.1(K) and Code of Civil Procedure Article 2637(F).

Payday Lending

HB 766 by Rep. Erich Ponti (OFI sponsored) provides for additional regulation on payday loans. This was a hot button issue at the state capitol this year with numerous bills on the topic having been filed and debated, but only this one getting through the process. The Act, among other things, provides that a payday loan shall be null, void and unenforceable if a payday lender has not obtained a license in this state. This will require on-line payday lenders to obtain a license. The Act also allows a payday loan consumer, upon request, to elect once during every 12-month period to repay a payday loan outstanding according to an extended repayment plan. During this repayment plan period the payday lender is prohibited from charging the consumer any interest or additional charges or fees related to that one loan. The Act amends La. R.S. 9:3557(B), 3560(A)(8), 3561(A), 3561.1(A)(1), 3578.4(A)(2), and 3578.7, enacts R.S. 9:3518.4, 3561.2, and 3578.4.1, and repeals R.S. 9:3560(A)(9).

Residential Mortgage Servicers License

HB 807 by Rep. Taylor Barras (OFI sponsored) requires entities engaged in mortgage servicing to obtain a license from the Office of Financial Institutions, and to be subject to the provisions of the “Louisiana S.A.F.E. Residential Mortgage Lending Act”, R.S. 6:1081 et seq. The Act defines "mortgage servicing" as collecting or remitting payments for another, or the right to collect or remit payments for another, of any of the following: principal, interest, tax, insurance, or other payment under a mortgage loan. Banks and thrifts and their employees are exempt from this Act and the licensing provisions of the Louisiana S.A.F.E. Act. The Act amends La. R.S. 6:1082, 1083(18) and (20), 1086(A)(1), 1087(F)(intro. paragraph), 1088(D), (F), (G)(3)(intro. paragraph), and (J), 1088.2(A)(1) and (3), 1088.3(A)(1) and (3), (C)(2)(intro. paragraph) and (b), and (D)(2), 1089(A), 1090(B)(1), 1092(B)(1)(e), (G), and (K), and 1099(F) and enacts R.S. 6:1083(11.1) and 1088(G)(3)(d).

Securities Registration Requirements

HB 1234 by Rep. Erich Ponti (OFI sponsored) amends the law pertaining to the registration of Regulation A securities. It provides that any security that qualifies under Regulation A adopted under Section 3(b) of the Federal Securities Act of 1933 may be registered under the terms and conditions provided in R.S. 51:705(H). Subsection 705(H) requires that all of the following be filed: a notice of intention to sell; a copy of the notification on Form 1-A or any form substituted therefor, and related offering circular or offering sheet, including other exhibits, filed with the SEC; a filing fee of one-tenth of one percent of the
aggregate price of the securities to be offered for sale in this state ($100 minimum-$1000 maximum fee), plus a $250 charge to defray expenses of the commissioner; and a consent to service of process using a specified form. R.S. 51:709(5)(a) was also amended to remove a reference to Regulation A, and a reference to Form 1-A was deleted from R.S. 51:709(5)(a)(ii). The Act amends La. R.S. 51:709(5)(a)(intro. paragraph) and (ii) and enacts R.S. 51:705(H).

**Consumer Loans Data Collection**

*Act 293; Effective 8/01/14*

SB 241 by Sen. Francis Thompson (OFI sponsored) amends the Louisiana Consumer Credit Law to authorize the OFI commissioner to collect consumer loan data. Licensees are required to report by March first of each year through the Nationwide Mortgage Licensing System and Registry or in a format approved by the commissioner. The type of data to be reported includes the following: total number and dollar amount of consumer loans originated and outstanding, including installment, insurance premium finance, deferred presentment, and any other types of loans as may be applicable; aggregate amount of fees earned including interest, service charges, late fees, origination fees, documentation fees, and insufficient funds fees; total number of consumer loans in default or collection status and the balance of those loans as of the reporting date; and the total number of consumer loans reduced to judgment and the principal amount of those loans. The Act amends La. R.S. 9:3554(A) and enacts 3554(N).

**Securities Registration**

*Act 119; Effective 5/16/14*

SB 265 by Sen. Danny Martiny (OFI sponsored) simply makes a technical correction to a federal citation contained in state law. The Act amends a provision that allows the OFI commissioner, by rule, to require an issuer of any security that is a federal covered security under the Federal Securities Act of 1933, as amended, to make a notice filing no later than 15 days after the first sale in this state of such federal covered security on SEC Form D, together with a consent to service of process and a filing fee. The Act amends R.S. 51:705(G).

**Registration of Investment Advisors**

*Act 298; Effective 5/28/14*

SB 266 by Sen. Danny Martiny (OFI sponsored) provides that beginning August 31, 2016, and thereafter, investment adviser representatives who are employed by a federal covered adviser (SEC registered firm) shall be required to satisfy the examination or certification requirements that the OFI commissioner designates by rule. Previously, an individual who was employed by an investment advisor registered with the SEC was exempt from the exam requirement. We are told this changes is consistent with the law of every other state. Also, we are told that employees with SEC registered firms will still get a waiver from the written exam requirement prescribed by the commissioner if they hold certain certifications, including: certified financial planner; chartered financial consultant; personal financial specialist; chartered financial analyst; chartered investment counselor; or any other professional certification as the commissioner may approve. The commissioner may adopt rules to implement the provisions of this Act. The Act amends R.S. 51:703(D)(4).

**Licensing Renewal for Currency Exchange Services**

*Act 125; Effective 5/16/14*

SB 362 by Sen. Page Cortez (OFI sponsored) amends the “Louisiana Check-Cashing Law”, which does not apply to banks, thrifts or credit unions. The Act requires any person required to be licensed under the check cashing law, prior to application for licensure, to be duly registered with the secretary of state and in possession of a certificate of authority to transact business in this state pursuant to current law regarding registration of foreign partnerships, corporations or LLCs.

The Act provides that beginning January 1, 2015 and thereafter, a licensee may submit through the Nationwide Mortgage Licensing System and Registry (NMLSR) his renewal application on or before December 31 of each year in a manner and form prescribed by the OFI commissioner. The renewal application shall be accompanied by a renewal fee of $250 plus an additional fee of $50 for each currency exchange location in the state, not to exceed $3,000, payable on or before December 31 of each year. A
renewal application submitted through the NMLSR after December 31 and before March 1 of the following year shall be charged a late fee of $100. If the renewal application is submitted timely on or before December 31, the license shall remain in force and effect until the renewal application is either approved or denied by the commissioner. Nothing shall preclude the commissioner from implementing any administrative or enforcement actions authorized by law for violations or any material misrepresentation that may have occurred prior to the renewal date of a license. The Act also provides that if the commissioner has not received the renewal fee and late fee before March 1, the license to engage in currency exchange shall lapse without hearing or notification, and the license shall not be reinstated. However, the person whose license has lapsed may apply for a new license. The Act amends La. R.S. 6:1004(A) and 1004.1(B) and enacts R.S. 6:1004(E).

Self-Help Repossession

HB 539 by Rep. Julie Stokes provides that a secured party utilizing the self-help repossession law may deliver by mail both of the following: the notice of repossession required by law to be filed with the recorder of mortgages in the parish where the collateral was located; and the $75 fee to the recorder of mortgages and the $250 fee to the appropriate official for each repossession filed. The Act provides that if the notice of repossession is sent by mail, the timeliness of the mailing shall be shown only by an official U.S. postmark or by official receipt or certificate from the U.S. Postal Service or private delivery service. The Act also provides that the filing of the notice of repossession and the payment of related fees shall occur within three business days of taking possession of the collateral, as opposed to three calendar days as required under prior law. The Act amends La. R.S. 6:966.1(A)(intro. paragraph), (B), and (C).

Repossession Agent Apprentices

HCR 3 by Rep. Julie Stokes amends certain rules of the Office of Financial Institutions to provide that an apprentice working to become a repossession agent may physically obtain possession of collateral for a secured party, without the direct supervision and presence of a licensed repossession agent, if the apprentice completes a minimum of 250 hours of qualifying experience under the direction and supervision of the sponsor and meets all additional qualifications provided in the rule.

The current rule requires the completion of 2000 hours of actual compensated work by an apprentice within the previous three years as qualifying experience prior to application for a license as a repossession agent. The rule previously stated that while working towards the 2000 hour requirement the apprentice was prohibited from repossessing collateral without on-site, direct supervision of a repossession agent. The repossession agents stated that the direct supervision requirement for apprentices created undue hardship for the sponsoring repossession agency in terms of manpower. The resolution directs the La. Register to print the amendments to LAC 10:XV.1303(E)(3) and 1315(A)(4) in the La. Administrative Code.

Model Change to UCC-4A, Electronic Transactions

HB 611 by Rep. Neil Abramson was brought on recommendation of the Louisiana State Law Institute and is a model change to Louisiana’s UCC-4A. The enactment of the Dodd-Frank Act amended the federal Electronic Funds Transfers Act (EFTA), which governs the rights, liabilities, and responsibilities of consumers participating in electronic funds transfers. Under Louisiana law, Chapter 4A of the Uniform Commercial Code governs funds transfers. Prior to this Act, UCC-4A did not apply to a funds transfer if it was governed by EFTA. Prior to passage of the Dodd-Frank Act, remittance transfers, commonly referred to as consumer international wire transfers, were governed by the EFTA. However, the changes made to the EFTA by the Dodd-Frank Act created an inadvertent statutory gap, and, as a result, remittance transfers are no longer governed by the EFTA or Louisiana law. The Act amends Section 4A-108 of the Uniform Commercial Code to make UCC-4A applicable to remittance transfers unless the remittance transfer also constitutes an electronic fund transfer as defined by the EFTA. Thus, revised 4A-108 provides that Article 4A applies to a remittance transfer that is not an electronic funds transfer under
the EFTA. The EFTA defines an “electronic funds transfer” to mean any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, ATM transactions, direct deposits or withdrawal of funds, and transfers initiated by telephone. The definition also includes a list of excluded activities. See 15 USC 1693a. The amendment then restates the rule of the supremacy clause that the federal statute will control in the case of any conflict between UCC Article 4A and the EFTA. This uniform set of amendments has been adopted by 42 states and the District of Columbia. The Act amends La. R.S. 10:4A-108.

**ABLE Accounts**

**Act 93; Effective - See Below**

HB 833 by Rep. Franklin Foil creates the “Achieving a Better Life Experience in Louisiana Act” or the “Louisiana ABLE Act.” The Act establishes an ABLE Account Authority to encourage and assist individuals and families in saving private funds for supporting persons with certain disabilities in endeavors to maintain health, independence, and quality of life. Membership of the Authority shall consist of seven members, including an officer of a bank in Louisiana who is a member of the LBA and who is nominated by the association. The Act further provides for the powers of the Authority and the procedures for conducting business.

The Act authorizes the establishment of ABLE Accounts, which are special savings accounts for financing certain qualified expenses of persons with certain disabilities. Disabilities covered by the Act include: blindness; or persons who have a medically determinable physical or mental impairment that results in marked and severe functional limitations, which can be expected to result in death or to last for a continuous period of time not less than twelve months.

Qualified disability expenses under the Act include: certain assistive technology and personal support service expenses; education expenses; certain employment support expenses; certain health, prevention and wellness expenses; housing expenses for a primary residence; transportation expenses; certain miscellaneous expenses; and any other expenses approved by the Authority in the administrative rules.

The Act provides that it is the intention of the legislature that the program shall be treated in the same manner as a qualified tuition program defined in Section 529 of the federal Internal Revenue Code, and that qualified disability expenses paid from an ABLE Account shall be treated in the same manner as qualified higher education expenses. Further, maximum contributions to ABLE Accounts shall be no higher than the limit established by the state for the Louisiana Student Tuition Assistance and Revenue Trust Program, R.S. 17:3091 et seq.

The effectiveness of this Act shall be contingent upon the enactment of amendments to Section 529 of the federal Internal Revenue Code that establish tax-advantaged savings accounts for persons with disabilities as provided in the Achieving a Better Life Experience Act of 2013, or any Act of the United States Congress that is substantially similar thereto. The Act enacts La. R.S. 36:259(Y) and 802.24, and R.S. 46:1721 through 1740.

**Restriction on Government Assistance Benefits**

**Act 842; Effective 6/23/14**

HB 1176 by Rep. Chris Broadwater and Sen. Dale Erdey places restrictions on the use of electronic benefits transfer (EBT) transactions by recipients of state cash assistance programs. EBT transactions subject to the Act include payment card transactions both at the point-of-sale and through ATMs. Specifically, the Act prohibits benefit card recipients from using their cards in certain types of establishments (liquor stores, gaming establishments, adult-oriented entertainment establishments, amusement attractions, etc.) and from purchasing certain items (alcohol, tobacco, lottery tickets, etc.).
Further, the Act prohibits retailers or other business establishments that participate in the cash assistance EBT system from accepting EBT cards for payment of alcoholic beverages, tobacco products, lottery tickets and jewelry. The Act also prohibits certain retailers and other business establishments from conducting any EBT transactions. Those prohibited retailers and business establishments include liquor stores, gaming establishments, adult-oriented entertainment establishments, and amusement attractions, among others. Further, if such retailers or businesses have ATMs on the premises they will be required to disable access for EBT cards. After consulting with member banks, we were told that prohibited retailers and businesses will have to ask their ATM provider to block certain vendor identification numbers, which providers are able to do. Penalties for violation of the Act fall squarely on the offending retailer or business establishment. LBA verified that there is no liability for financial institutions, and the general feedback we received from members was that banks generally do not have ATMs in the type of establishments named in the Act.

LBA also had some concerns about the initial definition of an “amusement attraction” as it was too broadly defined. Some member banks were concerned with the lack of specificity and the types of venues (including bank customers) that could have been interpreted to be “amusement attractions”, which would have required restricted ATM use. An LBA supported amendment was adopted that clarified that an “amusement attraction” does not include zoos and aquariums, and other businesses principally devoted to education, science, religion, sports, or the arts. The Act amends La. R.S. 46:114.4(C), 231, and 237 and enacts R.S. 46:231.3 and 231.14.

LENDING & COLLATERAL

Exemption from Seizure - Firearms
Act 322; Effective 8/01/14
HB 145 by Rep. Jeff Thompson increases the amount of firearms, arms and ammunition that is exempt from seizure by a creditor to a maximum value of $2,500. Prior law provided that only one firearm with a value not to exceed $500 was exempt from seizure. LBA opposed the original filed bill as it attempted to make all firearms and firearm accessories exempt from seizure by creditors. LBA generally opposes exemption from seizure bills and the original filed bill could have led to situations where expensive collections of firearms and ammunition, potentially worth tens of thousands of dollars, would have been exempt from seizure. LBA lobbied the committee detailing the absurd results that could occur.

After lengthy debate, Rep. Thompson agreed to a committee offered amendment that limited the value of firearms and ammunition that is exempt from seizure to the $2,500 threshold. With the adoption of the amendment, we removed our objection to the bill. The Act amends La. R.S. 13:3881(A)(4)(c), enacts 13:3881(A)(4)(g), and repeals 13:3881(A)(2)(e).

Motor Vehicle Seller’s Fee and Disclosure
Act 36; Effective 5/16/14
HB 183 by Rep. Lance Harris amends the Louisiana Motor Vehicle Sales Finance Act to increase from $100 to $200 the fee that sellers, who may extend credit in connection with a retail sale, may charge for credit investigation, compliance with federal and state law, preparation of documents necessary to perfect a lien, and for other functions incidental to titling. The required disclosure language was also moved from La. R.S. 6:969.18(G), which was repealed, to R.S. 6:969.18(A)(2)(b).

Minor’s Mortgage in Tutorship
Act 189; Effective 8/01/14
HB 622 by Rep. Neil Abramson provides relative to the requirements for creating a legal mortgage in connection with a tutorship of a minor. The Act clarifies that a certificate recorded in the amount of zero dollars does not create a legal mortgage. In order for the minor’s mortgage to be effective against third-
parties it must contain the information contained in La. CCP Article 4134(A). Article 4134(A) requires that a natural tutor record, in the mortgage records of the parish of his or her domicile, a certificate of the clerk setting forth the date of birth of the minor, the last four digits of the social security number of the tutor and the total value of the minor’s property according to the inventory or detailed descriptive list filed in the tutorship proceeding. The Act amends La. Code of Civil Procedure Article 4134(C).

**Expropriation of Mortgages**

Act 632; Effective 8/01/14

HB 656 by Rep. Greg Miller amends state expropriation law to prohibit the expropriation of mortgages. Local governments in a few states have attempted to use the doctrine of eminent domain to expropriate underwater mortgages from homeowners. This is a preemptive measure to prevent any such attempts in Louisiana. This Act amends La. R.S. 19:3 and 104.

**Legal Notices in Jefferson and Orleans Parish**

Act 197; Effective 5/22/14

HB 787 by Rep. Jeff Arnold provides for newspaper qualifications to publish official proceedings, legal notices, or judicial advertisements in the parishes of Jefferson and Orleans. The Act provides that the general law requiring a newspaper to be physically located and operating in the parish for the previous five consecutive years does not apply to Jefferson and Orleans Parishes if a daily newspaper with a general paid circulation has maintained a public business office in the parishes for eight consecutive months prior to January 1, 2014. The Act also repeals a provision that was applicable to Jefferson Parish, which required the total circulation of every publication or newspaper to be proved not less than annually by an experienced publication auditing firm prior to the selection of the publication or newspaper for publishing notices and advertisements. The prior law that was repealed also required the audit to reflect the circulation of the publication or newspaper by parish, and required the audit to be submitted as an attachment to any proposal by a publication or newspaper to publish judicial advertisements and legal notices in Jefferson Parish. The Act amends La. R.S. 43:142(B), 171(B), 200(3), and 201(D); enacts R.S. 43:202(D); and repeals R.S. 43:201(E).

**Statewide Portal for Records**

Act 826; Effective 6/23/14

HB 888 by Rep. Jeff Arnold authorizes the establishment of the Louisiana Clerks’ Remote Access Authority (“LCRAA”), and the creation of a statewide portal that could be useful for conveniently accessing certain public records from participating parishes in the state. We are told the initial focus will be establishing internet remote access to conveyance and mortgage records. The LCRAA will also be charged with developing indexing standards that will help with creating some uniformity. The Act authorizes the creation of a seven-member board to implement this portal. Five of the board seats will be filled by participating parish clerks of court. The LBA has an appointee to the board, which was done at LBA’s request, so that we can give user-input as the portal is developed and managed. Another board seat will be shared by a representative of the Louisiana Land Title Association and the Louisiana Association of Independent Land Title Agents. The Act allows for each clerk of court to charge an additional five dollar fee per recording that will help fund the development of the portal. However, if the portal is not operational by August 31, 2017, the additional fee shall not continue to be collected. The Act also authorizes the charging of user fees for remote access through the statewide portal. Once established, this portal could be a helpful tool for bankers and bank attorneys. The Act enacts La. R.S. 13:754.

**Revisions to Law of Pledge**

Act 281; Effective 1/01/15

SB 89 by Sen. Barrow Peacock was brought on recommendation of the Louisiana State Law Institute. It revises the Louisiana Civil Code Articles 3133 through 3180 on the law of pledge and makes other related changes. Articles 3133 through 3140 set forth the general rules of security. Article 3136 defines security as an accessory right established by legislation or contract over property, or an obligation undertaken by a person other than the principal obligor to secure performance of an obligation. It is accessory to the obligation it secures and is transferred with the obligation without a special provision to that effect.
Article 3138 explains that the kinds of security include suretyship, privilege, mortgage, and pledge. A security interest established to secure the performance of an obligation is also a kind of security. Articles 3141 through 3167 comprise the general provisions of the law of pledge in Title XX-A. Article 3141 defines a pledge as a real right established by contract over property of the kind described in Article 3142 to secure performance of an obligation. Article 3142 explains that the only things that may be pledged are the following: (1) a movable that is not susceptible of encumbrance by security interest; (2) the lessor’s rights in the lease of an immovable and its rents; and (3) things made susceptible of pledge by law. Revision comment (c) to Article 3142 explains that there are presently few, if any, corporeal movables that are excluded from coverage under Chapter 9 of the UCC. The few incorporeal movables that are excluded include rights under policies of insurance other than life insurance. Article 3143 clarifies that in the case of property susceptible of encumbrance by a security interest, the UCC contains the exclusive regime under which it can be encumbered as security. The revision comment to Article 3143 explains that parties cannot be permitted to negate the applicability of the UCC by styling their contract as one of pledge. Article 3149 provides the formal requirements of contracts of pledge.

One area that was revised in the Act that will be of interest to banks is the law governing the concept of assignment of leases and rents. Articles 3168 through 3174 provide the basic rules for pledging the lessor’s rights in the lease of an immovable and its rents. Traditionally, the law on assignment of rents and leases was contained in La. R.S. 9:4401. This Act revised R.S. 9:4401 and most of the law was codified into Title XX-A of Book III of the Civil Code, placing the encumbrance of the lessor’s rights in the lease of an immovable and its rents within the civil law framework of pledge. One of the significant changes is the place of filing of the assignment of rents and leases. Prior law required that the assignment be filed in the conveyance records. This Act amended Civil Code Article 3346 to require recordation of the pledge of the lessor’s rights in the lease of an immovable and rents in the mortgage records, rather than the conveyance records. La. R.S. 9:4403 contains transitional rules for the continued effectiveness of assignments of leases and rents filed in the conveyance records in accordance with former R.S. 9:4401 prior to January 1, 2015, as well as rules that apply to the reinscription, release, transfer, amendment, or other modification of these assignments.

The definition of Account in UCC-9, R.S. 10:9-102(a)(2) was amended to clarify which mineral interests are considered accounts and subject to a UCC-9 security interest and which interests are not included as accounts and are susceptible of encumbrance by pledge under Civil Code Article 3172. The term “account” includes any right that is payable out of, or measured by production of, oil, gas, or other minerals, or is otherwise attributable to a mineral right, whether or not the payment is classified as rent under the Mineral Code. The types of interests that are not within the definition of account and are interests susceptible of being pledged include bonuses, delay rentals, royalties, or shut-in payments payable to a landowner or mineral servitude owner under a mineral lease, and other payments to them that are classified as rent under the Mineral Code.

**NOTARIES**

**Ex Officio Notaries for Fire Departments**  
*Act 323; Effective 8/01/14*  
HB 197 by Rep. Karen St. Germain creates the authority for the appointment of up to three employees as ex officio notaries for each municipal or parish fire department or fire protection district. The fire chief of each department or district shall have the authority to designate the ex officio notaries as well as suspend or terminate an appointment made. Separation from employment shall result in the automatic termination of powers. Each employee designated as an ex officio notary may exercise the functions of administering oaths and executing affidavits and acknowledgments limited to matters within the functions of their fire department or district. The Act enacts La. R.S. 35:413.

**Pre-assessment Test**  
*Act 610; Effective 6/12/14*  
HB 243 by Rep. Taylor Barras requires an applicant for the statewide notary examination to first take a pre-assessment test, with no minimum score required, before sitting for the examination. The assessment will be administered by the secretary of state to assess the probability of the applicant passing the notary examination. The intent of this Act, which was brought at the request of the secretary of state, is to test an applicant’s reasoning and reading comprehension skills, and to give them feedback on their likelihood of passing the examination. The pre-assessment test is not required if the applicant has been duly admitted to practice law in this state or holds a valid notarial commission in this state. The Act amends La. R.S. 35:191(C)(2) and enacts 191(C)(3).

**Ex Officio Notaries for State DPS**  
*Act 171; Effective 8/01/14*  
HB 462 by Rep. Johnny Berthelot and Sen. Dan Claitor provides with respect to ex officio notaries public for the Louisiana Department of Safety and Corrections. The legislation authorizes the appointment of ex officio notaries for persons who are specially designated commissioned officers of the state fire marshal. The Act amends La. R.S. 35:393.

**Donation of Titled Motor Vehicles**  
*Act 660; Effective 8/01/14*  
HB 932 by Rep. Karen St. Germain provides that the owner of a titled motor vehicle may donate the vehicle by manual gift (by delivery to a donee without any other formality) as provided in Louisiana Civil Code Article 1543. The transaction is to be documented by submitting the previously issued certificate of title that is executed by the donor-owner to the office of motor vehicles through a Louisiana Motor Vehicle Commission licensee. The legislation also mandates that the office of motor vehicles promulgate rules and regulations to implement the provisions of this Section. The Act amends La. R.S. 32:1253(E) and enacts R.S. 32:705.1.

**TAX ASSESSMENT AND COLLECTION**

**Income Tax Refunds**  
*Act 412; Effective 6/04/14*  
HB 436 by Rep. Jim Fannin provides that the default method for the Department of Revenue to pay income tax refunds, beginning for tax year 2014, will be by paper check if the taxpayer filed a paper tax return. Currently, the Department is using prepaid payment cards as the default, and this has caused concern for some Louisiana citizens, as well as for some banks. The Act amends La. R.S. 47:1621(D)(1).
Private Vendors to Conduct Tax Sales

HB 488 by Rep. Johnny Berthelot proposes a constitutional amendment to allow an authorized agent of a tax collector to assist in the tax sale process, including the sale of property for delinquent taxes. The proposal also seeks authority for the authorized agent to charge a fee to be included within the costs that the collector can recover in the tax sale. The proposal will be on the ballot for the November 4, 2014 election. The proposal seeks to amend La. Constitution Article VII, Section 25(A)(1) and (E).

Enforcement of State Taxes

HB 798 by Rep. Julie Stokes amends provisions dealing with the enforcement and adjudication of state taxes. The Act gives the secretary of the Department of Revenue (DOR) additional discretion to waive tax penalties without approval by the Board of Tax Appeals (board). The Act also provides that any corporation whose federal income tax return is adjusted by the IRS shall file an amended state return within 180 days of the final determination of such adjustment from the IRS. Prior law just required the corporation to furnish a statement to the secretary of DOR disclosing the nature and amount of such adjustments to the federal return within 60 days.

The Act provides that the secretary may grant an extension of time to file a Louisiana income tax return for a specific taxable period if the taxpayer has received an automatic extension of time to file a federal income tax return for that taxable period. The method for the taxpayer to notify the secretary that an automatic federal extension was obtained shall be established by rule. The secretary may otherwise provide for the automatic extension of time to file a corporation return not to exceed seven months, or the extended due date of the federal income tax return, whichever is later.

The Act also provides that payments under protest petitions are within the jurisdiction of the board, and adjusts certain powers of the board and the secretary of DOR, as well as rights of any party to a matter pending before the board. The Act further provides that the board's internal deliberations concerning pending matters shall be considered judicial proceedings for the purposes of R.S. 42:17(B). Finally, the Act makes various revisions and technical changes to the procedures governing final judgments and judicial review of board decisions. The Act amends R.S. 47:15(14), 114(F)(3), 287.614(C) and (D)(3), 295(C), 299.9, 299.39, 1407(1), 1408, 1409, 1414(C), 1416, 1433 through 1435, 1438, 1486, 1508.1(B), 1561, 1565(C)(3), 1574(intro. paragraph), 1576(A)(1) and (2), (C), and (E), 1578(B)(2), (3), and (4)(a)(intro. paragraph), 1603(A), and 1688, and enacts R.S. 47:1574(5).

OTHER BILLS OF INTEREST

Mineral Leases

HB 297 by Rep. Gordon Dove provides generally for the process of accepting bids for mineral leases on state lands. The Act adds electronic funds transfer to the list of acceptable methods of payment of deposits required to accompany bids. Prior law only included certified check, cashier's check, or bank money order as acceptable methods of payment. The Act amends La. R.S. 30:127(F).

Business Corporation Law Revisions

HB 319 by Rep. Franklin Foil was brought on recommendation of the Louisiana State Law Institute to revise the Louisiana business corporation law. The revision adopts the Model Business Corporation Act (Model Act), which is the source of the corporation law in 30 other states. The non-model structure in Louisiana made the adoption of model updates and improvements technically more difficult and error-prone. The Act does retain some provisions of existing Louisiana corporation law. Professor Glenn Morris served as Reporter and Chair of the Corporations Committee of the Louisiana State Law Institute.
and he has prepared a summary of this Act. The summary describes some of the modern features the adoption of the Model Act provides, and explains some of the Committee’s revisions to the Model Act and current Louisiana Law. See a summary of this Act by Professor Morris without citations. See a summary with citations. The Act amends La. R.S. 12:1501, 1502(A), 1601 through 1604, and 1701, R.S. 44:4.1(B)(5), R.S. 49:222(B)(1) and (6), and Code of Civil Procedure Article 611, enacts R.S. 12:1-101 through 1-1704, and 1702 through 1704, and repeals R.S. 12:1 through 178 and 1605 through 1607.

**Online Account Privacy**

**Act 165; Effective 8/01/14**

HB 340 by Rep. Ted James creates the "Personal Online Account Privacy Protection Act". The Act prohibits an employer from: requesting or requiring an employee (or an applicant for employment) to disclose information that allows access to the employee's personal online account; or discharging, disciplining, failing to hire, or otherwise penalizing or threatening to penalize an employee (or applicant) for failure to disclose information that allows access to their personal online account. An "employer" is defined as a person, including a unit of state or local government, engaged in a business, industry, profession, trade, or other enterprise in this state and includes an agent, representative, or designee of the employer.

Among other things, the Act does not prohibit an employer from doing the following: (1) requesting or requiring an employee (or an applicant for employment) to gain access to or operate: (a) an electronic communications device paid for or supplied by the employer; or (b) an account or service provided by the employer, obtained by virtue of the employee's relationship with the employer, or used for the employer's business purposes; (2) disciplining or discharging an employee for transferring the employer's proprietary or confidential information or financial data to an employee's personal online account without the employer's authorization; (3) conducting an investigation or requiring an employee or applicant to cooperate in an investigation under circumstances described in the Act; or (4) restricting or prohibiting an employee's (or applicant's) access to certain websites while using an electronic communications device paid for, or supplied by, the employer or while using an employer's network or resources in accordance with state and federal law.

The Act provides that an employer is not liable for the inadvertent receipt of personal online account access information through the use of any electronic device or program monitoring the employer's network or employer provided device. However, the employer shall not use the information to access the employee's (or applicant's) personal online account. The Act also provides that none of its provisions shall be construed to prohibit or restrict an employee or applicant for employment from self-disclosing any username, password, or other authentication information to the employer allowing access to the employee's (or applicant's) personal online account. The Act also shall not create a duty for an employer or educational institution to search or monitor the activity of an individual's personal online account. The Act enacts La. R.S. 51:1951 through 1955.

**Private Works Act Security**

**Act 182; Effective 8/01/13**

HB 567 by Rep. Rob Shadoin amends the Private Works Act to remove a certificate of deposit (CD) as an acceptable form of security that must be deposited with the recorder of mortgages in order to prevent a statement of claim or privilege or notice of pendency of action from being cancelled. Other forms of authorized payment guarantee include a bond of a lawful surety company, cash, or certified funds. Feedback we received was that CDs are not used. The explanation is that CDs are generally not negotiable instruments and all that a customer possesses is a receipt. Therefore, the recorder of mortgages is unable to possess the CD without risk that someone could go and cash it in. The Act amends La. R.S. 9:4835(A) and (B).
**Motion for Summary Judgment Procedure**

HB 599 by Rep. Neil Abramson amends provisions allowing evidence to be filed with a motion for summary judgment or memorandum filed by an adversary. Specifically, the Act allows a court to permit documentary evidence to be filed in any electronically stored format authorized by the local court rules of the district court or approved by the clerk of the district court for receipt of evidence. The Act also provides that objections to evidence in support of, or in opposition to, a motion for summary judgment shall be served pursuant to Code of Civil Procedure Art. 1313 within the time limits provided by District Court Rule 9.9. The Act amends La. Code of Civil Procedure Article 966(F)(2) and (3).

**Delegation of Duties of Trustee**

HB 620 by Rep. Neil Abramson amends the Louisiana Trust Code to clarify that a trustee to a trust may delegate authority to a mandatory through a written power of attorney, in authentic form, to sell specifically described immovable property at a specific price. This is considered a delegation of the performance of a ministerial duty as provided in La. R.S. 9:2087(B), which this Act amends.

**Limited Liability Companies and Deceased Members**

HB 621 by Rep. Neil Abramson amends the law on limited liability companies (LLCs) to provide that if the last remaining member of an LLC dies, the duly appointed executor or administrator of the member shall have the authority to sell any real estate owned by the LLC. In addition, if the last remaining member of an LLC is determined by a court to be incompetent, the curator of the individual member shall have authority to sell any real estate owned by the LLC. The Act amends La. R.S. 12:1333.

**State Infrastructure Bank**

HB 628 by Rep. Karen St. Germain and Sen. Francis Thompson is a constitutional amendment that was adopted by the legislature and will be submitted to the voters of Louisiana during the November 4, 2014 election. The Act amends provisions of the Louisiana Constitution dealing with use of public funds. Specifically, if adopted, it would authorize the investment of public funds to capitalize a state infrastructure bank and the loan, pledge, guarantee, or donation of public funds by a state infrastructure bank for eligible transportation projects. If adopted by the voters, this will amend Article VII, Section 14(B) of the Constitution of Louisiana.

**Termination of Leases by Military Personnel**

HB 654 by Rep. Nick Lorusso expands the state law rights to terminate a residential lease to a spouse of any active or reserve member of the military. The Act also provides new situations when a military member or their spouse may terminate a residential lease including: (1) the member is injured incidental to his/her service in the uniformed services, which requires hospitalization for more than 15 days; and (2) the member has been killed incidental to his/her service in the uniformed services.

Lessees (including spouses as provided above) who qualify to terminate a rental agreement shall do so by serving upon the lessor a written notice of termination to be effective on a date stated therein, which is not to be less than 30 days after the date the notice is served. Prior to the termination date, the lessee shall furnish the lessor with clear and convincing evidence of the hospitalization or death of the service member, including but not limited to any of the following documents: (1) hospitalization records or a death certificate for the service member; (2) a statement from a casualty assistance office from the United States Department of Defense, branch of the United States Armed Forces, or the Louisiana National Guard; (3) a statement from the service member's commanding officer; or (4) a media release from the United States Department of Defense, branch of service, or military installation.

The Act also provides that if a lessee in a civil legal proceeding against an owner or lessor establishes that a violation of this law occurred, the lessee shall be entitled to recover $200 dollars in damages in addition
to any other damages or remedies and costs to which the lessee may also be entitled. The Act amends La. R.S. 9:3261.

Filing False Liens

HB 752 by Rep. Helena Moreno amends provisions relative to the crime of filing a false lien against a law enforcement or court officer. Specifically, the Act amends the definition of a “court officer” to include any clerk of court, deputy clerk of court, and recorder of mortgages. The Act amends La. R.S. 14:133.6(B)(1).

Real Estate Appraiser Fees


Limited Liability Companies

HB 841 by Rep. Walt Leger amends the limited liability company (LLC) law. The Act amends the definition of “person” to include a common law trust, business trust, statutory trust, voting trust, or any other form of trust. R.S. 12:1316 regarding voting by managers was amended to specify that no manager may vote by proxy unless it is provided for in the articles or operating agreement. Section 1318 governing voting of members was amended to add a set of rules allowing for proxy voting. Section 1370 was added to establish rules for voting trusts, which would allow one or more members of an LLC to enter an agreement to transfer voting shares to a person or company having authority to act as a trustee for a period not exceeding 15 years. The Act amends La. R.S. 12:1301(A)(18) and 1316, and enacts R.S. 12:1318(E) and 1370.

Real Estate Appraiser’s Board Membership

HB 894 by Rep. Frank Hoffmann increases the size of the Real Estate Appraiser’s Board from nine to ten members. The Act increases the number of LBA appointed members from one to two, and deletes antiquated language that gave the Community Bankers of Louisiana (CBL) an appointee. As you recall, CBL merged with LBA many years ago. The Act also creates a board position for an employee or representative of a Louisiana licensed appraisal management company who has been engaged in the business of appraisal management for at least four years. Additionally, that member shall be a citizen and qualified elector of Louisiana and licensed as a Louisiana certified real estate appraiser immediately preceding the appointment to the board. The Act amends La. R.S. 37:3394(B) and (H).

Homeowner’s Insurance Clarity

HB 909 by Rep. Chris Leopold requires insurance companies authorized to write homeowner’s insurance in the state to annually submit to the insurance commissioner, for homeowner’s insurance policies, the total amount of direct paid losses reported by peril less all deductibles, the number of policies written, and the direct written premiums for the prior calendar year. The insurance company shall report the computations to the commissioner by zip code and parish. Insurance companies subject to the Act shall comply by May 1, 2015. The information received by the insurance commissioner shall be aggregated across all insurance companies collectively, and the aggregated totals shall be arranged by zip code and parish. The Act also provides that creditor-placed homeowner’s insurance, condominium association insurance, and commercial insurance are excluded from the requirements of the Act.

The Act requires the insurance commissioner to post a link to the data on the Department of Insurance website in a prominent position on the website's home page. The insurance commissioner shall also post on the Department’s website a general description of the ratemaking methodology that the commissioner permits insurance companies to use in establishing their homeowner’s insurance rates. The Act also requires each company subject to the Act to provide the above listed information for calendar years 2004
to present, and such information shall be posted by the commissioner as well. Finally, the Act also provides for the commissioner’s authority to modify, extend or waive reporting requirements under certain circumstances, and for assessing penalties for failure to comply with the Act. The Act enacts La. R.S. 22:1488.

**Nuisance Ordinances for the City of New Orleans**  
*Act 828; Effective 8/01/14*

HB 940 by Rep. Neil Abramson adds two new provisions to Title 13 of the Louisiana Revised Statutes that enable the city of New Orleans to amend their city ordinances to impose a civil fine for violation of nuisance, sanitation and litter ordinances on immovable property. The Act also authorizes the city of New Orleans to enact an ordinance establishing an adjudication hearing procedure for nuisance, sanitation, and litter violation fines. Fines may be imposed by the issuance of a sanitation ticket. The hearing officer’s order imposing the fine, penalty, cost, or fee assessed may be filed in the mortgage or conveyance office. The filing of an order shall constitute a lien and privilege against the property and may be placed on the ad valorem tax bill and be paid the same as taxes. No fine shall exceed a maximum of $500 per violation. A violation may be appealed to the district court. See La. R.S. 13:2575.6. We were told by city representatives that the focus of this legislation is on property owners who set tree trimmings in a pile on the curb and do not follow the requirement of bundling up such yard waste.

The Act also added La. R.S. 13:2575.7, which applies only to parishes between 35,000 and 36,000 persons (St. Bernard and Beauregard Parishes), and it amends the term “housing violation” to include a violation of building codes, zoning, vegetation, and nuisance ordinances. In addition, it provides that the procedures for administrative adjudication provided in this Chapter may be utilized in matters involving licensing and permits, and any other ordinance violations determined by the parish governing authority. The Act enacts La. R.S. 13:2575.6 and 2575.7.

**Real Estate Appraisers Licensing**  
*Act 213; Effective 8/01/14*

HB 1018 by Rep. Frank Hoffmann makes various changes to the Real Estate Appraisers Licensing Law. The Act repeals requirements that a licensee be 18 years of age and have obtained a high school diploma, among other things, and instead requires applicants to have satisfied the minimum education, examination, and experience requirements mandated by the Appraisers Qualifications Board (AQB) of the Appraisal Foundation and published in the most current version of the Real Property Appraiser Qualification Criteria. The Act also provides that applicants shall undergo a background screening as mandated by the AQB.

The Act provides that applicants for a real estate appraiser trainee license shall be subject to training and direct supervision by a certified appraiser who has been licensed as a certified real estate appraiser for at least three years prior to becoming a supervising appraiser, and who is in good standing. The Act provides that both the trainee applicant and the supervising appraiser shall complete a course that complies, at minimum, with the specifications for course content established by the AQB. The course shall be completed by the trainee appraiser prior to obtaining a trainee appraiser license and by the supervising appraiser prior to supervising a trainee appraiser. The supervising appraiser shall not have been subject to any disciplinary action within the last three years that affects the supervisor's legal eligibility to engage in appraiser practice.

The Act also requires, as a prerequisite to license renewal, all appraiser trainees, and certified residential and certified general appraisers to complete the equivalent of 14 hours of continuing education per calendar year. Finally, the Act provides requirements for out-of-state licensees to become licensed in the state, and requires an appraiser to notify the board within 10 days of any sanction imposed on the appraiser by another jurisdiction. The Act amends La. R.S. 37:3396(B), (D), and (F)(2), 3397(B)(1), (3)(intro. paragraph) and (d) through (f), (4), and (5), 3398(A), 3401(B), (C)(intro. paragraph) and (3),
Powers of Attorney for the Elderly

HB 1133 by Rep. Tim Burns was brought on recommendation of the Louisiana State Law Institute. It creates a new law for reviewing the acts of a mandatory and for granting relief. The Act enables certain interested parties to petition the court to review the act of a mandatory when there is concern that a mandatory for an elderly person is misusing their authority. The petition shall name as defendants the principal, the mandatory, and any other person against whom relief is sought. The petition must be filed in the parish where the principal is domiciled, where the principal resides if without a domicile in this state, or where the principal is physically present or where immovable property of the principal is located if the principal is without either a domicile or a residence in this state. The Act authorizes the court to grant relief upon a finding that a mandatory has violated a duty or failed to perform any obligation as a mandatory. The court may grant any relief to which the principal is authorized and may enjoin the mandatory from exercising all or some of the powers granted by the mandate. While the action is pending the court has authority to order an accounting of the mandatory, or order a financial institution, healthcare provider or any other person to provide the financial, medical, or other information of any defendant to the action. The court also has authority to appoint someone to investigate the allegations of the petition, to order discovery, enjoin the mandatory, or appoint a person to exercise some or all of the authority granted by the mandate if there is no successor or substitute mandatory named in the mandate.

The Act also amends Louisiana Civil Code article 3029 relative to termination by a mandatory to provide that when a mandatory has reasonable grounds to believe a principal lacks capacity, the mandatory’s resignation is effective only when the mandatory notifies another mandatory or a designated successor mandatory. If there is no other mandatory or a designated successor mandatory, the termination is effective when the mandatory notifies a person with a sufficient interest in the welfare of the principal.

Partition of Immovable Property-Minority Interests

SB 39 by Sen. Ed Murray amends the law relative to how co-owners of immovable property may partition the property. The Act expands what is classified as a minority interest in co-owned property to include a co-owner who owns an aggregate interest of 20 percent or less of the immovable property if there was a past ownership of the whole by a common ascendant. The Act provides that a co-owner of a minority interest in immovable property may petition the court to allow the remaining co-owners to purchase at private sale the petitioners’ shares at a price determined by a court-appointed appraiser. It also provides that where past ownership was by a common ascendant, each remaining co-owner shall have 90 rather than 30 days to file the notice to exercise his option to purchase his pro-rata share of the property being sold. The Act amends La. R.S. 9:1113.

Filing Fees for Clerks of Court

SB 111 by Sen. Danny Martiny amends the authorized filing fees collectable by clerks of court for certain civil matters. The Act provides that any clerk that establishes procedures for the filing, receipt, or issuance of certain documents by electronic means may establish fees for the filing, receipt, or issuance of
Condemnation of Dangerous Structures

SB 174 by Sen. Karen Carter Peterson amends provisions that allow a parish or municipality to condemn a building in a condition that could cause immediate loss or damage to person or property (cases of grave public emergency). Current law allows such condemnation after 24 hours have passed from served notice upon the owner, his agent, or the occupant and an attorney-at-law appointed to represent an absentee owner. Prior law allowed notice to be attached to a door or entrance of the premises, and provided that such notice would have the same effect as personal service. The Act amends the law to specify that notice could be placed in a conspicuous place on the exterior of the premises, and provides that if notice is placed on an entrance, it must be the main entrance. The Act also amends provisions dealing with notice given prior to demolition of a building, which must specify the time when demolition work will begin. The Act provides that in cases of grave public emergency, the posting of notice in the manner described above for condemnation shall also be sufficient when serving notice of demolition. The Act amends La. R.S. 33:4762(C), 4764(A), and 4765(C).  

Discrimination in Employment

SB 359 by Sen. Jack Donahue makes it unlawful to intentionally pay wages to an employee at a rate less than that of another employee of the opposite sex for equal work on jobs in which their performance requires equal skill, effort, and responsibility, and which are performed under similar working conditions. An employer paying wages in violation of this Act may not reduce the wages of any other employee in order to comply. The Act also provides that when the court finds that an employer’s dispute over the amount of wages due was in good faith, but the employer is subsequently found by the court to owe the amount in dispute, the employer shall be liable only for the amount of wages in dispute plus judicial interest incurred from the date that the suit is filed. If the court determines that the employer’s failure or refusal to pay the amount of wages owed was not in good faith, then the employer shall be liable under current law for the lesser of the following: 90 days wages at the employee’s daily rate of pay; or else for full wages from the time the employee’s demand for payment is made until the employer shall pay or tender the amount of unpaid wages. The Act amends La. R.S. 23:332(A) and (H)(3) and 632.

Water Damaged Vehicles

SB 417 by Sen. Gary Smith provides that a vehicle whose power train, computer, or electrical system has sustained water damage, but does not meet the criteria for a salvaged vehicle or a certificate of destruction, shall be issued a branded title by the office of motor vehicles indicating the vehicle has sustained water damage. The Act enacts La. R.S. 32:707(O).  

Investments by Political Subdivisions

SB 442 by Sen. Danny Martiny amends the authorized investments for municipalities, parishes, school boards, and other political subdivisions of the state. The Act increases from three to five years the maximum maturity of bonds, debentures, notes or other debt issued by the state or its political subdivisions, which is an authorized investment. The Act also authorizes as acceptable investments bonds, debentures, notes, or other indebtedness issued by domestic U.S. corporations provided that all of the following conditions are met: (1) The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard & Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.; (2) The indebtedness has a final maturity, mandatory tender, or a continuing optional tender of no more than five years; and (3) Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing Louisiana political

**Electronic Assets of a Decedent**

Act 758; Effective 8/01/14

SB 461 by Sen. Barrow Peacock amends Louisiana Code of Civil Procedure Article 3191 relative to the duties and appointment of a succession representative to provide for the power and authority of a succession representative to take control of, handle, conduct, continue, distribute, or terminate any digital account of the decedent. A “digital account” is defined to include any account of the decedent on any social networking Internet website, web log Internet website, microblog service Internet website, short message service Internet website, electronic mail service, Internet website, financial account website, or any similar electronic services or records, together with any words, characters, codes, or contractual rights necessary to access such digital assets and any text, images, multimedia information, or other personal property stored by or through such digital account.

At the insistence of LBA, language was added to the Act to clarify that certain provisions in the Banking Code (R.S. 6:325 and R.S. 6:767) shall control how federally insured financial institutions provide Internet or other electronic access to an authorized succession representative for administration of a decedent’s estate. The Act amends La. Code of Civil Procedure Article 3191.

**Escheatment of U.S. Savings Bonds**

Act 588; Effective 6/09/14

SB 603 by Sen. John Alario enacts a new procedure in the Uniform Unclaimed Property Act for the escheatment of United States savings bonds presumed abandoned. The Act provides that U.S. savings bonds that are unclaimed property shall escheat to the state three years after becoming unclaimed property, and all property and ownership rights of such bonds, or proceeds from such bonds, shall vest solely in the state according to the procedures set forth in the Act.

The Act provides that within 180 days after the three years prescribed in the Act, if no claim has been filed for such U. S. savings bonds, the administrator (state treasurer) shall commence a civil action in the 19th Judicial District Court in East Baton Rouge Parish for a determination that such savings bonds shall escheat to the state. The administrator shall make service by publication of the proceeding in the 19th JDC. The notice shall name any defendant to be served and notify the defendant of the following: (1) The defendant has been sued in the 19th JDC; (2) The defendant shall answer the petition or other pleading on or before a specified date, not less than 41 days after the date the notice is first published; and (3) If the defendant does not answer or otherwise defend, the petition or other pleading will be taken as true and judgment will be rendered accordingly.

The Act details procedures to be followed by the administrator before service by publication can be made. The Act provides that if no person files a claim or appears at the hearing to substantiate a claim, then the court, if satisfied by evidence that the administrator has substantially complied with state law, shall enter a judgment that the subject U. S. savings bonds have escheated to the state, and all property and ownership rights of such bonds or proceeds from such bonds shall vest solely in the state.

The Act provides that the administrator shall redeem such U. S. savings bonds escheated to the state and the proceeds from such redemption shall be deposited in the state treasury to the credit of the state general fund. The Act also provides procedures for a person to make a claim for U. S. savings bonds escheated to the state, or for the proceeds from such bonds. Upon providing sufficient proof of the validity of such claim, the administrator may, in his sole discretion, pay such claim in accordance with current law. The Act enacts La. R.S. 9:182.
BAD BILLS THAT DID NOT PASS

HB 420 by Rep. Kevin Pearson would have allowed local assessors to include in the assessed value of property the value of any federal and state tax credits given to developers to develop low-income housing developments. The result would have been greatly increased property taxes for these low-income developments. Those increased taxes would have been borne by development owners (and not passed on to tenants) due to the ceiling for rents chargeable to low-income residents of these developments. Bankers with expertise in this area told us that they would not continue to finance these developments if the bill passed. Testimony was provided in the House Ways and Means Committee by LBA, member bankers and low-income housing advocates that these developments would not occur in the future, and current developments would be severely harmed with the passage of the bill. The bill was voluntarily deferred by the author after a lengthy hearing, and after realizing that there was not enough support on the committee for advancing the bill.

HB 545 by Rep. Regina Barrow would have required a lessor to certify to the lessee that the leased premises are free of toxic mold. The bill also specified that the lessor would have been responsible for all repair, remediation, and removal of toxic mold on the premises. If during the lease it was discovered that the premises contained mold, then the lessor would have had 30 days to repair and remediate the property or provide the lessee an equivalent residence certified as free of toxic mold. The lessee would have been entitled to recover all moving expenses. The provisions of the proposed bill could not be waived. HB 545 did not make it out of the House Civil Law and Procedure Committee.

HB 883 by Rep. Alan Seabaugh, as originally filed, required a rigid procedure for mortgage holders to follow for disbursing insurance proceeds to a borrower with a damaged or destroyed residence. This included a requirement that 50 percent of the insurance proceeds be advanced at the beginning of the repair or rebuild project, upon request by the borrower. LBA was strongly opposed to the bill because it would have taken away the ability of a mortgage holder to protect their collateral (and their borrower’s hard earned equity) by ensuring it is repaired or rebuilt properly. The bill was amended in the House Commerce Committee to take out requirements on the percentage of proceeds to be distributed by the mortgage holder upon initial or subsequent draws. However, the bill as amended was still very concerning and would have had negative repercussions to both lenders and their borrowers. After lengthy debate in committee, the bill was voluntary deferred by the author after it was clear there was not support for the bill. This bill was filed at the request of State Farm who asserted they are seeing problems with mortgage holders not distributing insurance proceeds to borrowers in a timely manner. Before this session, LBA had not previously heard from State Farm about this issue.

HB 1179 by Rep. Dalton Honore would have required licensed repossession agents to maintain normal business hours at their physical locations. The Act defined “normal business hours” as being from 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays. Repossession agents were concerned about the added overhead costs this would have added to their businesses, and the result could have been increased costs for users of repossession services.

SB 166 by Sen. Danny Martiny would have required a payor state chartered bank to pay a check drawn on it against an account with a sufficient balance without regard to whether the payee was a customer of the bank. LBA testified that the bill was problematic because there are valid reasons why a bank may not cash a check presented by a non-customer (i.e. fraud, among others) and the bill only applied to state chartered banks. After discussion by the committee, the bill was voluntarily deferred by the author.

SB 233 by Sen. Sharon Broome attempted to add victims of domestic abuse as a protected class that could not be discriminated against by landlords or property owners when selling or leasing residential
property, or when deciding whether to evict a person from property. Victims of domestic abuse would have been added to the current list of protected classes based on race, color, religion, sex, familial status, or national origin. This bill fell into the category of well-intentioned but wrought with practical problems. Among other things, the bill was concerning because of the broad definition of “domestic abuse”, the potential for frivolous lawsuits against property owners, and it took away the ability of property owners to protect other tenants from potential danger. This bill was defeated on the House floor.

SB 298 by Sen. Yvonne Dorsey-Colomb sought to impose certain restrictions on residential leases and to grant certain rights to lessees. The bill would have shortened the time period (from 30 days to 14 days) for a landlord to return a security deposit to a tenant who moves out. It would have required landlords to place security deposits in an escrow account and to notify the lessee at the time of signing the lease of the location of the separate account. The bill also would have increased the penalty (from actual damages or $200 to an amount equal to twice the amount of the wrongfully withheld deposit or advance) for failing to comply with the provisions relative to security deposits. The bill also would have created certain rights for a tenant or lessee who may be a victim of domestic abuse, dating violence, or family violence. The bill also contained a proposed change to Civil Code Article 2726 by providing that in a month-to-month lease, a change in the amount of the rent would have been considered a substantial modification and not enforceable against the lessee unless the lessee consented in writing. Proposed changes were also made to delay evictions. The bill was stopped in Senate committee.

SB 426 by Sen. Eric LaFleur would have made it an unfair trade practice for a contract to sell or purchase residential real estate to contain any provision requiring the purchaser, as a condition of sale, to use a specific provider of settlement services (generally this is referring to title services). Further, the bill would have prohibited any person from providing a discount or economic incentive dependent on a purchaser’s (of residential real estate) use of a particular settlement service provider. Our initial concern with this legislation was that it would inhibit the ability of banks from requiring (or incentivizing) the use of a particular title company that they knew and trusted. The bill was amended in committee to exclude lenders, but LBA remained concerned that the language did not cover situations where the bank was the seller of property, and not just the financer. Further, LBA was concerned about potential conflicts with federal programs and harmful amendments that could have been added if the bill advanced. The bill passed out of the Senate Commerce Committee with amendments after lengthy debate and opposition by LBA, realtors, and home builders, among others. LBA worked with this broad coalition of opposition to help stop the bill on the Senate floor.

SB 479 by Sen. Gary Smith was another concerning bill introduced that would have dictated how mortgage holders disburse insurance premium proceeds to borrowers with damaged property subject to a mortgage. The bill would have required mortgage holders to release “excess funds” within 15 days after receiving written request from the borrower. Excess funds included funds in excess of the loan balance and six months of future accrued interest. The bill would have given the OFI commissioner authority to impose civil money penalties of up to $150 per day for failure to comply with the provisions of the bill. Among other concerns, this bill would have put bankers at risk of not being able to properly protect their collateral, and could have negatively impacted the ability of homeowners to ensure their homes were rebuilt properly and restored to their previous value. LBA voiced our concerns to Sen. Smith numerous times and he opted not to schedule the bill.

SB 530 by Sen. Sharon Broome would have required parishes to establish and maintain a registry of foreclosed properties. Under the bill, seizing creditors would have been required to register properties they are foreclosing on by filing a certified copy of the notice of seizure with the governing authority. An annual registration fee of up to $250 payable by the seizing creditor would also have been required. LBA met with the author of the bill multiple times on our concerns, and we expressed that the information
being sought from seizing creditors was already contained in public records with various local
government entities. Sen. Broome eventually opted not to pursue the bill.

**SB 576 by Sen. Gerald Long** sought to place restrictions on how short sales of residential real estate are
handled. It required that when a property owner places property on the market for sale, the property
owner may be represented only by a licensed real estate agent who is trained in short sales or has earned
the short sales foreclosure resource designation, or by a Louisiana licensed attorney. It also required that
certain disclosures and forms be used in a short sale, and prohibited a creditor from seeking a deficiency
judgment if all of the terms and conditions of the creditor were met at the act of sale. Sen. Long listened
to our concerns and did not schedule the bill for hearing.