



Legislature 2009 Overview

HB 94/LC 835 Security Interests in Liquor Licenses. Amends the section of code that lays out the procedure for acquiring a lien on a liquor license. Allows regulated lenders (includes banks and credit unions) to use their usual documentation in obtaining the security interest. Makes it clear that obtaining the security interest does not constitute operation of the business, which is generally prohibited by the current section. It appears the main thrust is to ensure that a person may put up a liquor license for someone else's loan without causing problems for the lender. At the hearing, testimony revealed that DOR was requiring changes to standard loan documents—for example, striking the typical restriction that collateral cannot be moved without the consent of the lender. This DOR practice was recently begun after at least 25 years of using standard documents with no problems reported.

Status: Enacted Into Law Effective 3/25/09

Link: [Bill Text](#) and [Details](#)

HB 101/LC 660 Wage Withholding On Employee Theft. Current law generally requires immediate payment of wages when an employee is terminated for cause or laid off. An exception is provided when the employee is terminated for alleged theft. In such a case, the employer may withhold wages but must file a report with law enforcement within 7 days of termination. If law enforcement files charges within 15 days of the report, the employer can continue to withhold wages while the case is pending. If no charges are filed within 15 days, the wages must be paid. If charges are filed and the employee is found guilty, the withheld wages may be used to offset the loss from theft. If the employee is found not guilty, the court will order payment of the wages. The bill would change the 7-day period for reporting to "7 business days" and would extend the period for filing charges from 15 to 30 days.

Status: Enacted Into Law Effective 3/25/09

Link: [Bill Text](#) and [Details](#)

HB 133/LC 346 Child Support Enforcement. Makes various changes to child support enforcement laws. Of interest to credit unions is section 4 which allows an alternative to income withholding. A child support debtor who would otherwise be subject to income withholding would be allowed to arrange for direct deduction of payments from a financial institution account (including credit union accounts) or payments by credit card in lieu of income withholding.

Status: Enacted Into Law Effective October 1, 2009 except section 4 effective April 9, 2009

Link: [Bill Text](#) and [Details](#)

HB 155/LC 246 Privacy Protection by State Agencies. Based on the law passed in 2005 and codified at 30-14-1704, MCA, that applies to private business. Requires notification of computer security breach to persons whose personal information may have been compromised. Requires state agencies to develop procedures to limit state agency use of social security numbers, restrict access, and otherwise protect social security numbers.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

HB 228/LC 672 Gun Rights. Liberalizes the laws of self defense with a firearm. Changes the concealed weapons law so it would only apply when the weapon is concealed just prior to its use in committing a crime, essentially gutting the concealed weapons prohibition, except that the 45-8-328 prohibition on carrying a concealed weapon in a financial institution remains intact. [Credit unions in MT will be receiving a separate analysis of this bill the week of May 18 after completion of analysis by CUNA Mutual Group and retained counsel.]

Status: Signed by the Governor Effective April 27, 2009

Link: [Bill Text](#) and [Details](#)

HB326/LC 766 Construction Lien Signatures. Current law allows furnishers of materials and services for real estate improvements to have a lien on the home for payment. This bill would require the notice to claim lien filed with the county clerk to be signed by the person claiming the lien or their authorized representative. A notice filed electronically would have to be signed electronically. The bill also requires a signed notice of lien release once payment has been made.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

HB 451/ LC 1077 Home Purchaser Protection. Requires contractors to provide written disclosures and warranties to purchasers under residential construction contracts and purchases of newly constructed homes. Construction contracts required to address liability insurance, workers compensation, billing cycle, change order procedure, statement of inspections and tests, statement of owner's right to inspections and tests, and statement of 1-year express warranty. The inspection and test and the warranty requirements apply to newly constructed homes. While the bill will not directly affect credit unions, it does help ensure the value of collateral for financing of construction loans and loans for newly constructed homes. Credit unions will want to obtain a copy of the disclosures and warranties.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

HB 477/LC2212 Guardianship and Protective Proceedings Jurisdiction. Adopts the “Uniform Adult Guardianship and Protective Proceeding Jurisdiction Act.” Provides for cooperation between courts of different states in all aspects of guardianship of the person and conservatorship of the property of incapacitated adults and provides guidelines for jurisdiction when cases have connections to multiple states. Credit unions would be authorized to allow the out of state conservatorship to open an account in Montana.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

HB 608/LC 1772 Local Government Lien on Fire Insurance. This new law addresses the situation where a person’s building burns down and the person abandons the property and leaves it for the local government to remove the debris. The local government can take the underlying property to cover the cost of debris removal ,but if the value of that property is less than the cost of removal, the local government stands to take a loss. The new law specifically authorizes the local government to take any other property of the person who has abandoned the burned premises to pay for the deficiency in debris removal costs. As originally introduced the bill could have affected the collections priority of a lender, but as enacted it should have no effect on credit union collections.

Status: Enacted Into Law Effective April 26,2009

Link: [Bill Text](#) and [Details](#)

SB 58/LC 371 Private Sale of Local Government Bonds. Local governments must auction special improvement and rural improvement bonds to the highest bidder. There is an exception for sale of bonds to the state or federal government, where the sale may be made in a private negotiated sale. This bill would allow a private negotiated sale of up to \$1 million in bonds for these special districts to a bank. State chartered credit unions can only invest in general obligations (32-3-701) of political subdivisions. The FCU Act does not appear to contain such a restriction on investment in political subdivisions (107 (7)(K). Credit unions are not included in the bill. If included, it appears that FCUs could participate in private sales. Under current law, it appears FCUs could bid on the bonds at auction.

Status: Enacted Into Law Effective July 1, 2009

Link: [Bill Text](#) and [Details](#)

SB 152/LC 317 Motor Vehicle Laws. By Request of the Dept. of Justice/Division of Motor Vehicles, the bill makes revisions to several sections in the motor vehicle registration and licensing laws. Of interest is section one amending the lien filing statute. Subsections (1)(a)(i) and (ii) of 61-3-103, relating to entry of the lien, are deleted. This is unnecessary language deleted for housekeeping purposes. Section 3 of the bill amends 61-3-224 and deletes most of current subsection (2) describing who is entitled to a temporary permit, including a financial institution who is demonstrating a repo to a prospective buyer, and a provision allowing a temporary permit for any purpose authorized by department administrative rule is substituted.

DMV has assured us that the repo permit process will be carried forward and implemented soon.

Status: Enacted Into Law Effective January 1, 2010

Link: [Bill Text](#) and [Details](#)

SB 351/LC 1932 Mortgage Lender and Broker Licensing. Implements the federal SAFE Act, by amending more of existing law rather than repealing and replacing, and using different wording than the Department of Administration SB 122. It includes an elaborate regulatory and licensing scheme including loan officer registration in a national registry, testing and continuing education, record-keeping, bonding, prohibited and prescribed practices, criminal penalties, strong enforcement authority, and more. Every state must adopt the new model act or the U.S. Dept. of Housing and Urban Development (HUD) will step in and enforce a similar regulatory scheme. The FFIEC will soon adopt rules for all insured institutions to register loan officers. The bill does clarify the exemption for financial institutions and their employees. Registration of loan officers is not directly required if they are registered in the FFIEC registry.

Status: Enacted Into Law Effective July 1, 2009

[The FFIEC rules and registry will not be in place by July 1, but this should not be a problem. Under sec.2 (2) and sec. 6 (4) no one has to be registered until April or June of 2010. Sec. 3 (29) (b) and sec. 4 do require our loan officers to be registered to be exempt, but as mention, even if not exempt they wouldn't have to register until 2010.]

Link: [Bill Text](#) and [Details](#)

SB 375/LC 1581 Property Insurance Lending Requirements. Would prohibit a state chartered bank, credit union, or licensed mortgage lender from requiring insurance on improvements to real property securing a loan in excess of the reasonable replacement value of the improvements.

The bill uses the identical language of the 2005 legislation but puts it in the three correct statutes. It would apply only to state charters and cannot attempt to control federal charters because of preemption issue.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

SB 441/LC 1203 Collections and Judgments. Clarifies the statute of limitations on actions against either spouse to collect on debts for family expenses. Allows for collection of the fine portion of a judgment when it's combined with a prison sentence. Of greatest interest to credit unions is a provision allowing for a fee to be charged by the sheriff or levying officer every time a remittance is made under a wage garnishment. Prior to 2001, a separate levy had to be served on each paycheck until the debt was paid. A levy fee of about \$30 was taken off the top of the debtor's paycheck each time, and additional charges for mileage could also be tacked on.

The Network initiated and drafted a bill for the 2001 Legislature to provide for a continuing levy of 120 days, so the levy is served once and the allowed amount is remitted automatically each paycheck until the debt is paid or the 120 days runs out. This was intended to streamline the process and save needless charges to the debtor while increasing his/her ability to cover the debt. Levying officers vigorously opposed the bill. Chances are they are behind this bill to now allow a fee for processing each remittance.

Status: Enacted Into Law Effective October 1, 2009

Link: [Bill Text](#) and [Details](#)

SJ 9/LC 147 Student Loan Study. The resolution calls for an interim study by the Legislative Finance Committee. The study is to focus on how the Guaranteed Student Loan Program and other financial aid program are working, governance structure, and whether a change should be made to the Federal Direct Student Loan Program.

Status: Passed Senate and House and filed with the Secretary of State (Governor signature not required)

Link: [Bill Text](#) and [Details](#)
