



FINANCIAL INSTITUTIONS TODAY

News and topics of interest to financial institutions regulated by the Department of Banking and Finance

May 2016

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Governor Deal Signs House Bill 811

Governor Deal signed House Bill 811 into law on May 3, 2016. The bill was introduced by Representative Bruce Williamson at the request of the Department of Banking and Finance ("Department") and it will go into effect on July 1, 2016. The bill revises statutory provisions governing the majority of the entities regulated by the Department – banks, credit unions, bank holding companies, money service businesses, mortgage loan originators, and merchant acquirer limited purpose banks – as well as certain provisions addressing the Department's general powers.

Among other items, the bill:

- 1) recognizes the federal preemption of state law regarding approval of branches for out of state banks and national banks and eliminates the requirement that these entities register with the Department as the Department has no regulatory authority over these entities;
- 2) clarifies that financial institutions are authorized to charge fees for cashing "on us" checks;
- 3) defines virtual currency and provides that money transmitters or sellers of payment instruments that transmit virtual currency are governed by the money service business laws and that the Department can enact unique regulations for these entities;
- 4) eliminates as a felony the violation of the charter or bylaws of a financial institution by a director, officer, or employee;
- 5) removes the ability of the Department to present a case directly to the grand jury;
- 6) establishes the grounds for which a member of the board of directors of a credit union can be removed or suspended;
- 7) requires that the board of directors of a credit union annually approve retaining "other real estate owned";
- 8) provides for corporate governance and merger provisions for merchant acquirer limited purpose banks;
- 9) removes the reserve requirements for state-chartered banks and credit unions with federal deposit insurance as the reserve requirement is set by federal law;
- 10) removes references to building and loan associations as those charters no longer exist; and
- 11) removes barriers for the conversion of a federal savings banks into a state savings bank.

The Department strongly encourages every regulated entity to review the bill to ensure a thorough understanding of all of the applicable revisions. House Bill 811 can be viewed at https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/HB%20811.pdf.

2016 Notice of Intent to Adopt New Rules

On Tuesday, May 17, 2016, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-1012, and other cited statutes, the Department gave notice of its intent to adopt new rules. The proposed new rules may be viewed at http://dbf.georgia.gov/sites/dbf.georgia.gov/files/related_files/document/DBF%20Proposed%20Rulemaking%205-17-16.pdf.

Comments to the Department must be received by the close of business on Thursday, June 16, 2016.

Internal Controls – Back to Basics

Financial institutions should have an effective internal control program to address all risks: credit, liquidity, interest rate, strategic, transactional, compliance, and reputation risk. Risk is the common denominator between internal controls and audits. On a proactive basis, the institution should assess the risk inherent in its activities and develop effective policies, procedures, and processes designed to control those risks. The institution should have an independent internal audit program designed to test these controls to provide the board of directors (board) a report that gauges effectiveness, identifies weaknesses, and supports strategic decisions.

Three chief complaints about internal controls programs are that the policies are routinely circumvented for convenience, the policies do not provide meaningful risk limits, and that the policies do not result in appropriate safeguards. An effective internal audit program should have the ability to identify and correct these problems as well as deter non-compliance with internal controls. However, the effectiveness of the internal control program is only as strong as the resources dedicated to implementation, assessment, and use.

Policies and Procedures

The board is charged with providing appropriate policies over internal controls. These policies and procedures should be aligned to the risks in the institution and designed to control or mitigate these risks. Generally, daily management has the delegated authority to implement the board's policies. However, the responsibility of an effective program rests with the board, and with that, the board also has responsibility to assess management's ability to implement and comply with internal control policies. One tool that the board has to make this assessment are periodic internal audit reports.

Internal Audits

The report card to the board on an institution's internal control policies and procedures generally comes in the form of periodic internal audit reports. An effective internal audit program is comprehensive in scope, is independent, has an unpredictable cycle, meets regulatory requirements, and promotes timely corrective actions. Audit report findings are generally organized in a tracking report that includes the finding itself, the origination date, the person responsible for addressing the finding, the proposed solution, and updates until resolution. The board may find value in reviewing the tracking reports in its assessment of the internal audit process as well as management's ability to comply with internal controls and address audit findings in a timely manner.

Red Flags

Noncompliance with the institution's internal policies and procedures may be a red flag to the board that management is taking on more risk than the board has authorized. Reports of non-compliance with governing laws, regulations, and regulatory guidance may reveal bad actors within the institution or may indicate that the institution's policies and procedures do not adequately address all of the institution's compliance risks. If reports of examination routinely include findings that are not previously identified in the periodic internal audits, then a review of the risk assessments, audit plans, and tracking reports may reveal weaknesses in the internal audit program that need to be addressed.

Loss Resulting from Weak Internal Controls Program

Bond claims to cover losses caused by fraud or dishonesty are not automatic. If the insurance company determines that the institution did not have reasonable policies and procedures to mitigate the risk of loss, payment of the claim may be in question. Internal control policies that are routinely ignored, authorize unlimited access, levels of access to users beyond what is needed to perform duties, or do not require independent verification may be deemed ineffective as providing little if any control at all.

Where's the Risk?

The board should look at its on balance sheet and off balance sheet activities in light of the products and services authorized, the delivery systems implemented, job responsibilities, and the level of oversight and control over these areas and ask the question: *Where is the risk and how is that risk being controlled?*

Maintaining effective controls is an ongoing process. Assess the risk, develop the controls, independently test the controls, and make adjustments based on the results of testing.

Commissioner Hagler Elected to CSBS Position

On May 24, 2016, the Conference of State Bank Supervisors (CSBS) announced the election of Commissioner Kevin Hagler as Regulatory Committee Chairman for 2016-2017. The CSBS Regulator Committee is tasked with developing positions on pending state and federal supervisory matters and making recommendations to the CSBS Board of Directors. Recent areas of focus for the committee have included: capital policy; changes to loss accounting; the Home Mortgage Disclosure Act; mortgage regulations; fair lending; market place lending; large bank supervision; and coordinated compliance supervision, among other topics.

CSBS is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators supervise nearly 4,850 state-chartered financial institutions as well as a variety of non-bank financial service providers. For more information, visit <https://www.csbs.org/news/press-releases/pr2016/Pages/022416b.aspx>.

Georgia Banks' Help Needed with National Survey

State bank supervisors in coordination with the Federal Reserve are planning the fourth annual Community Banking in the 21st Century research and policy conference. See <https://www.communitybanking.org/>. The goal of the conference is to provide a venue and encourage research on community banking. This research is a critical component to improving public policy as it relates to community banks and local communities.

For last year's conference, state regulators conducted a nationwide survey of community banks with approximately 1,000 banks participating. The results of the survey and the town hall meetings are highlighted in a publication released during the conference. The 2015 report can be downloaded at <https://www.communitybanking.org/documents/Community-Banking-in-the-21st-Century-2015.pdf>.

The survey for 2016 is now live. The purpose of the survey is to give researchers and policy makers an opportunity to hear directly from community banks on a range of important topics. Please take the time to complete the 2016 survey, available at <https://sri.cornell.edu/CB21/2016/>. Completion should take no longer than 30 minutes. Thank you for your engagement.

CSBS Announces Winners of the 2016 Community Bank Case Study Competition

On May 26, 2016, CSBS announced the winners of the 2016 Community Bank Case Study Competition. This nationwide competition for undergraduate college students is an innovative approach to the study of community banking. The announcement and videos of the winning teams and other competition finalists may be viewed at <http://www.cvent.com/events/csbs-community-bank-case-study-competition/event-summary-09332b6031c2425da13caa2af42237fb.aspx>.

Action on Applications for the Month:

The following is a summary of official action taken on applications by State Financial Institutions under Title 7, Chapter 1 of the O.C.G.A. and petitions for Certificate of Incorporation of Financial Institutions and other matters of interest during the month of May 2016.

APPLICATIONS TO ESTABLISH A BRANCH OFFICE

<u>FINANCIAL INSTITUTION</u>	<u>BRANCH OFFICE</u>	<u>APPROVAL DATE</u>	<u>BEGIN BUSINESS DATE</u>
SunTrust Bank Atlanta	Morningside Heights Branch Office 1845 Piedmont Avenue NE Atlanta, GA 30324 Fulton County	Pending	
SunTrust Bank Atlanta	North Charleston Branch Office 2089 Ashley Phosphate Road North Charleston, SC 29406 Charleston County	Pending	
Health Center Credit Union Augusta	Main Office 1424 Walton Way Augusta, GA 30901 Richmond County	12-08-2015	05-06-2016
Ethicon Credit Union Cornelia	Main Office 255 North Main Street Cornelia, GA 30531 Habersham County	05-17-2016	
First Bank Dalton	Calhoun Branch Office 401 South Wall Street, Suite 102 Calhoun, GA 30701 Gordon County	03-31-2016	05-02-2016
The Southern Credit Union Fayetteville	Kia Branch Office 7777 Kia Parkway West Point, GA Troup County	05-25-2016	

APPLICATIONS FOR RESERVATION OF A NAME

<u>PROPOSED NAME</u>	<u>COUNTY</u>	<u>APPLICANT</u>
American Commerce Bank	Haralson County	Mr. Steven J. Haack Chief Financial Officer American Commerce Bank N.A. 400 US Highway 27 Bypass Bremen, GA 30110
Pacific Metro Bank	Fulton County	Mr. James Stevens Troutman Sanders LLP 600 Peachtree Street NE, Suite 5200 Atlanta, GA 30308

FINANCIAL INSTITUTION MERGERS

<u>FINANCIAL INSTITUTION (SURVIVOR)</u>	<u>MERGED INSTITUTION</u>	<u>APPROVAL DATE</u>	<u>EFFECTIVE DATE</u>
United Community Bank Blairsville, GA	Tidelands Bank Mount Pleasant, SC	Pending	
Bank of the Ozarks Little Rock, AR	Community & Southern Bank Atlanta, GA	Pending	
State Bank and Trust Company Macon, GA	The National Bank of Georgia Athens, GA	Pending	

**APPLICATIONS TO BECOME A BANK HOLDING COMPANY
AND/OR TO ACQUIRE VOTING STOCK OF A FINANCIAL INSTITUTION**

<u>BANK HOLDING COMPANY</u>	<u>TO ACQUIRE</u>	<u>APPROVAL DATE</u>
Southeast, LLC Atlanta, GA	Barwick Banking Company Barwick, GA	Pending
United Community Banks, Inc. Blairsville, GA	Tidelands Bancshares, Inc. Mount Pleasant, SC	Pending

**DBF Outreach
AND UPCOMING SPEAKING ENGAGEMENTS**

- *Community Bankers Association of Georgia 38th Annual Leadership Division Convention & Mini-Trade Show* – Deputy Commissioner for Supervision Lori Godfrey will be speaking at the CBA's Banker 38th Annual Leadership Division Convention & Mini-Trade Show in Lake Buena Vista, Florida on June 24, 2016. For more information, visit <http://www.cbaofga.com/leadership-division-convention>.

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The Department is the state agency that regulates and examines Georgia state-chartered banks, state-chartered credit unions, state-chartered trust companies, and Georgia bank holding companies. The Department also has responsibility for the supervision, regulation, and examination of Merchant Acquirer Limited Purpose Banks (MALPBs) chartered in Georgia.

In addition, the Department has regulatory and/or licensing authority over mortgage brokers, lenders and processors, mortgage loan originators, check cashers, sellers-issuers of payment instruments, money transmitters, international banking organizations, and bank holding companies conducting business in Georgia.

Our **Mission** is to promote safe, sound, competitive financial services in Georgia through innovative, responsive regulation and supervision.

Our **Vision** is to be a willing and able partner with our regulated entities in order to support vibrant economic growth and prosperity in Georgia.

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