

# MCUL & Affiliates Governmental Affairs

## FEDERAL ADVOCACY UPDATE 2018

Issue	Summary	Status
<b>Electronic Notarization</b>	Current law in all but two states requires that an individual seeking the performance of a notarial act must physically appear before a notary public for positive identification. While Michigan has adopted the Uniform Electronic Transaction Act, it does not participate in electronic notarization (e-notary). Representatives from the Secretary of State indicated that E-SIGN and UETA already authorized e-notary; however, current state rules do not permit electronic notarization.	<ul style="list-style-type: none"> <li>MCUL began working with the Secretary of State's office and the Department of Technology, Management and Budget in 2017 to permit electronic notarization.</li> <li>The MCUL is working with potential bill sponsors to introduce legislation soon. Under the legislation, the Secretary of State and DTMB would approve tamper-evident technologies by January 1, 2019 for notaries to use if they choose to notarize documents electronically.</li> </ul>
<b>Lienholder Notification</b>	Credit unions have reported an increase in delayed or untimely notices on vehicles considered to be abandoned or involved in a crime. Under current law, the Secretary of State has seven days to notify the owner and lienholder of record that the vehicle has been abandoned. The owner or lienholder then can redeem the vehicle by paying the towing and storage fees in their entirety. If they do not pay the fees within 20 days of receiving notice, the vehicle's ownership is transferred to the towing and storage facility and is then sold at auction.	<p>House Financial Services Chairwoman Diana Farrington introduced HB 5181 in October. The legislation would prohibit towing and storage fees from accumulating until the notice has been received by the lienholder of record; creating a right of inspection for lienholders within the Abandoned Vehicles code; and allowing lienholders to contest fees if they deem them unreasonable. A committee hearing was held in early November and further consideration is expected in December.</p> <p><b><i>Please encourage your State Representative to support HB 5181 as it moves through the Michigan House of Representatives.</i></b></p>
<b>Data Breach Notification &amp; Liability</b>	Over the past decade, an increasing number of businesses and state agencies have reported massive data breaches. Wendy's had a large data breach in 2015 impacting hundreds of thousands of Michigan credit union members. Credit unions continue to bear the majority of financial costs of data breaches. While pin-chip cards (EMV technology) represent an improvement in payment technology, these only impact one aspect of the electronic payment process. States must ensure all of those who participate in the payments system share the costs resulting from data breaches. Additionally, State laws should ensure institutions and citizens impacted by breaches are notified in a timely fashion.	<ul style="list-style-type: none"> <li>In early October, Data Breach legislation (SB 632-633) was introduced in the State Senate by Chairman Darwin Booher.</li> <li>This legislation will require the individual, agency or business that incurs a breach to notify financial institutions that a breach has occurred in the most expedient time possible without unreasonable delay.</li> <li>The legislation also establishes a formal structure for a cybersecurity council, which would provide annual reports to the Governor and legislative leaders.</li> </ul> <p><b><i>The MCUL supports SB 623-633 and encourages you to contact your State Senator to encourage their support as the bill moves through the legislative process.</i></b></p>
<b>Payday Lending Expansion</b>	Many Michigan consumers are feeling the pinch from revolving, high-interest credit extended by alternative financial service providers such as payday lenders. Credit unions and other depository institutions are heavily regulated at both the state and federal levels whereas payday lending storefronts are only regulated at the state level. In Michigan, the Deferred Presentment Service Transaction Act (DPSTA) regulates these alternative provider products. However, in advance of new federal rules seeking to curb industry abuses, several payday lending companies are pursuing state reforms to further expand their product and lending authority.	<ul style="list-style-type: none"> <li>SB 430-432 were introduced in June of 2017 by State Senators David Robertson (R) and Vincent Gregory (D). This legislation would create an entirely new act for payday lenders called the Small Loan Regulatory Act.</li> <li>The legislation would authorize non-traditional lenders to offer small loans for up to two years. Under the Small Loan Regulatory Act created in SB 431, a licensee would be able to offer borrowers a small loan with a maximum \$2,500 to be repaid within 2 years with triple-digit interest rates (vs. current 30 day, \$600 loan).</li> <li>These bills expose Michigan consumers to predatory loan products with inadequate consumer protections.</li> </ul> <p><b><i>Please encourage your State Senator to oppose this legislation.</i></b></p>

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<b>Common Sense Regulatory Relief</b>	<p>Regulatory relief continues to be a significant issue of concern for Michigan's credit unions. Credit unions must comply with a number of new and revised requirements from not only NCUA and the CFPB, but other regulators as well. The regulatory burden under which credit unions must operate stifles their ability to efficiently serve their members and creates a pocket of the financial system unserved and underserved. The cost of regulatory burden on credit unions has increased to more than \$7.2 billion, according to a study commissioned by CUNA.</p>	<p>The MCUL and CUNA support legislation that would expand the oversight of the CFPB to a five person commission to ensure diverse perspectives are included in final rules. On November 13, Senate Banking Committee chairman Mike Crapo introduced bi-partisan regulatory relief legislation that includes several provisions aimed at providing relief to community lenders such as credit unions. The proposal will foster economic growth by right-sizing regulation, particularly for credit unions. <b><i>Please encourage your U.S. Senators to co-sponsor this legislation in the U.S. Senate.</i></b></p>
<b>Maintain CU "Not-for-Profit" Tax Status</b>	<p>In 1937, Congress granted credit unions a not-for-profit status based on their cooperative structure. To this day, credit unions continue to operate as democratically controlled cooperative institutions, serving their members on a not-for-profit basis. As cooperatives, credit unions have a long-standing tradition of protecting their members' interests. The credit union not-for-profit tax status is good public policy that benefits all Americans. More than 5 million consumers have chosen to become a member at one of Michigan's 230 credit unions. Nationally, there are more than 100 million credit union members. The credit unions' not-for-profit tax status enables all CUs, regardless of asset size, to provide high quality, low cost financial services to their members.</p>	<p>In the Fall of 2017, the House Ways and Means Committee passed tax reform legislation out of committee and the Senate Finance Committee introduced its tax reform legislation. As introduced, neither the House or Senate bills would alter the CU not-for-profit tax status. From Michigan, Representatives Mike Bishop and Sander Levin serve on the House Ways and Means Committee. Senator Debbie Stabenow serves on the Senate Finance Committee. Every member of Michigan's Congressional delegation provided the MCUL a statement supporting credit unions and our not-for-profit tax status. <b><i>The MCUL and CUNA will continue to analyze tax reform proposals to determine their impact on credit unions and our members.</i></b></p>
<b>Repeal the CFPB Arbitration Rule</b>	<p>The Dodd-Frank Act of 2010 established the Consumer Financial Protection Bureau (CFPB) and among other things, authorized the agency to review and issue regulations related to pre-arbitration agreements and the restriction of such agreements, in cases where it would be beneficial to consumers to do so. On July 10, 2017 the CFPB finalized its May 2016 proposed rule seeking to limit the use of pre-arbitration agreements. CUNA and the MCUL believe the rule would increase the risk of frivolous and extremely expensive lawsuits.</p>	<p>In July of 2017, the House passed legislation (H.J. Res. 111) that would invalidate the CFPB's arbitration rule. The Senate followed suit and passed the resolution in September. On November 1, 2017 President Trump signed H.J. Res. 111 into law forbidding the rule from taking effect and prohibiting the CFPB from trying to reissue the same rule or crafting a similar one to it, unless authorized by Congress. The MCUL and CUNA are pleased to see this rule repealed. <b><i>Please thank your member of Congress for supporting the repeal of this CFPB rule.</i></b></p>
<b>ADA Website Compliance</b>	<p>Title III of the American's with Disabilities Act (ADA) requires equal access for the disabled to public accommodations. Unfortunately, the ADA was written at a time before the rise of the internet. As such, it does not speak to the accessibility that public accommodations must provide to the internet, specifically on websites. The U.S. DOJ issued an Advance Notice of Proposed Rulemaking in 2010 seeking to address this issue via a rule, however it never followed through and issued a final rule. As a result, businesses, including credit unions, have been left without valuable guidance and remain vulnerable to lawsuits claiming they do not comply with ADA.</p>	<p>MCUL is working with CUNA to compel the U.S. Department of Justice to re-start the rule making process on this matter. Recently, MCUL efforts resulted in five members of the Michigan Congressional Delegation signing on to a letter to U.S. Attorney General Jeff Sessions to urge him to remedy the situation. <b><i>The MCUL will continue working with CUNA until a resolution can be identified.</i></b></p>