



# 2021 KEY STATE ISSUES

February 2021 Update

## Credit Union Difference and Not-For-Profit Tax Status

- Credit unions are not-for-profit co-ops, owned by their members.
- Credit unions do not pay corporate income tax because of their not-for-profit co-op business structure, as opposed to for-profit banks. Credit unions pay all other applicable taxes, like payroll and social insurance, real estate, UBIT, sales (state charters), etc.
- Banks can raise capital for the equity and bond markets. Credit unions can only raise capital through retained earnings.
- Credit union profits are shared with members through higher savings returns, lower loan rates, fewer and lower fees, low-cost or free products and services and financial literacy programs.
- More than half of credit union-originated mortgages go to borrowers earning middle incomes or less.
- Credit union business lending is growing dynamically to support our communities and businesses.
- Credit union boards are drawn from members, elected by the members, and serve as unpaid volunteers. Banks can provide stock options and ownership to their boards, executives and staff. Credit union directors and officers are focused on service as opposed to benefiting from stock appreciation.
- This important structural difference, as well as credit unions' commitment to serve the unique needs of the underbanked and local economies, has contributed to the bi-partisan support for the federal and state corporate income tax exemptions.
- Credit unions focus on financial education for youth and adults.
- While the consumer and business services provided by credit unions may look and feel similar to banks, it's the not-for-profit co-op business structure that drives the credit union tax status.

## Small-Dollar Loans by Payday Lenders

- HB 4004 was introduced, allowing payday lenders to offer \$2,500 installment loans (from 90-365 days) with monthly service fees equating to 132% APR.
- MCUL opposes HB 4004 and encourages legislators to explore meaningful and non-predatory solutions to address the need for additional financial products in the market.
- Credit unions have long opposed payday lending in general and the expansion of authority for payday licensees into this space. Our members are too familiar with the negative effects and cycle of debt that many borrowers experience when using payday loans.
- Many credit unions offer alternative products to help borrowers avoid these types of loans, provide free financial counseling and will work with members in their individual situations when they need help. The triple-digit APR of this proposed product dwarfs Michigan usury caps, allowable rates for PALs and the rates of legitimate alternative products offered by credit unions.
- While this bill incorporates some additional consumer protections, such as "ability to repay" (ATR) requirements, the legislation still allows the high-priced loan to be renewed by another small loan. A lender could loan to a borrower that has an outstanding small loan or payday loan from another provider, leaving the window open for cyclical renewals on products that are difficult for vulnerable borrowers to pay back.
- The COVID-19 crisis has wreaked havoc on our economy and many people's ability to make ends meet. The legislature should carefully consider the impact of new lending products, when challenged borrowers are at their most vulnerable. Rather, we should be looking at appropriate regulatory relief for traditional financial institutions and ways to foster more affordable emergency consumer lending.

## Broadband

- SB 0046 seeks to help telecommunication companies expand the broadband access network in the state of Michigan.
- The legislation aims to provide telecommunication companies a tax break for a period of 10 years on qualified broadband equipment that is used to broaden access to broadband in rural areas and areas where service is not currently available or available on a very limited basis.
- MCUL supports efforts to expand broadband to all corners of the state. We believe that technological literacy and access to broadband go hand in hand with financial literacy.

## Data Security and Privacy

- Since 2005, thousands of data breaches have occurred; more than 8 billion records were exposed in Q1 2020. In 2019, 16 billion records (credit cards, addresses, phone numbers, etc.) have been exposed. The retail industry's current method of self-policing without adequate security standards is clearly not working.
- A cyber attack occurs every 39 seconds. If retailers are not properly protecting the data they collect on their consumers, they should be responsible for when the data is accessed by outside sources.
- Financial institutions are forced to assume the costs related to breaches, including card replacement, fraud control, member communication and fraudulent transaction cost.
- While a federal standard is the preferred method of addressing this issue our team will continue to push for a state solution to this problem.

## Assignment of Rents

- When a commercial loan defaults, the rights and obligations of creditors and tenants with regard to rent proceeds can be unclear.
- Usually, a creditor takes a separate assignment of rents from the debtor, which provides a direct right to rent payments in the event of a default. But even then, the right to payment is uncertain against other competing creditors.
- If the tenant pays the mortgagor without notice of the assignment, and the mortgagee subsequently demands another payment, tenants may end up having to pay twice.
- The UARA provides basic rules to establish the "security interest" of the creditor, the rights of tenants to notice and the effect of notice, and the priority of the interest against other creditors.

## Assignment of Rents

- Michigan Saves is a program helping to provide loans for energy efficient upgrades for homes and businesses.
- From inception through last year, participating credit unions have financed about 75% of these loans, over \$150 in financing.
- The average residential loan is about \$10,600.
- The funding is needed to ensure continuation of the program, and to hopefully allow other credit unions to participate.