



2019 KEY STATE ISSUES

Credit Union Difference and Not-For-Profit Tax Status

- CUs are not-for profit co-ops, owned by their members.
- CUs do not pay corporate income tax because of their not-for-profit co-op business structure, as opposed to for-profit banks. CUs 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. CUs can only raise capital through retained earnings.
- CU 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. CU directors and officers are focused on service as opposed to benefiting from stock appreciation.
- This important structural difference, as well as CUs' commitment to serve the unique needs of the underbanked and local economies, has contributed to the bipartisan support for the federal and state corporate income tax exemptions.
- CU 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.
- CUs focus on financial education for youth and adults.
- More than half of CU-originated mortgages go to borrowers earning middle incomes or less.
- CU business lending is growing dynamically to support our communities and businesses.
- While the consumer and business services provided by CUs may look and feel similar to banks, it's the not-for-profit co-op business structure that drives the CU tax status.

Data Security and Privacy

- Since 2005, tens of thousands of data breaches have occurred, and more than 11.6 billion records have been exposed nationwide.
- The retail industry's self-policing and lack of meaningful security standards is woefully inadequate.
- Financial institutions are forced to assume the costs related to breaches, including card replacement, fraud control, member communication and fraudulent transaction cost.
- HB 4186-4187 have been introduced to modernize Michigan's data breach notification law, providing a date-certain for consumer notification.
- These bills have passed the House Financial Services Committee and await consideration and action by the House Ways and Means Committee.
- The legislation should include a mandate that retailers and card processors adhere to their card brand agreements regarding breach procedures and information security.
- The legislature should also enact processor-to-processor notification processes to allow CUs and banks to police potentially affected cards as soon as possible.

Cannabis Banking

- The Controlled Substances Act (CSA) classifies cannabis as a Schedule 1 drug.
- While cannabis remains illegal at the federal level, many states, including Michigan have made it medically and/or recreationally legal.
- Despite Michigan legalizing medical and recreational use, financial institutions are apprehensive about providing financial services to cannabis businesses, because it remains federally illegal.
- The Secure and Fair Enforcement (SAFE) Banking Act of 2019, H.R. 1595 and S. 1200, and the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act of 2019, S. 1028 and H.R. 2093, have been introduced.
- The U.S. House Financial Services Committee has marked up and reported the SAFE Banking Act. The bill has been discharged from the House Judiciary Committee, setting up floor action in the near future. No actions have been scheduled yet on the STATES Act bills.
- An amendment was approved to federal budget bills by the U.S. House (first chamber) to prevent U.S. DOJ from using appropriated funds to prevent states from implementing state laws authorizing the use, distribution or cultivation of cannabis.
- Both would provide safe harbor protections to financial institutions providing services to legal cannabis businesses in states where cannabis is legalized.
- Bringing cannabis-related cash into the legitimate framework of financial institutions is a public safety, trafficking prevention and in some respects even a public health necessity.
- Many Michigan CUs are likely already involved through other business clients or municipalities that service or regulate these entities.
- The Michigan House adopted H.R. 101, sponsored by Rep. Yousef Rabhi (D-Ann Arbor), urging Congress to adopt safe harbor legislation. The Michigan Senate should act on a similar measure by Sens. Curtis Hertel (D-East Lansing) and Peter Lucido (R-Shelby Twp), S.C.R. 9.
- Gov. Gretchen Whitmer, Attorney General Dana Nessel and DIFS Director Anita Fox have joined sign-on letters with their respective colleagues, urging federal action. The National Association of State Treasurers adopted and sent a similar resolution.
- CUNA and AACUL also provided a letter to leadership of the U.S. Senate Banking Committee urging action on either the STATES Act or SAFE Banking Act. MCUL CEO Dave Adams signed on behalf of Michigan.

Military Account Escheats

- Michigan's unclaimed property laws require dormant accounts to be escheated after the passage of certain time periods.
- Active-duty military accounts escheat at three years, unless the member is deployed overseas, in which case the period is five years.
- US-DOD does not provide information allowing credit unions to differentiate between personnel deployed domestically or overseas. Several credit unions have been written up by examiners for holding accounts for too long, while trying to avoid escheating a military account too early.
- SB 125 has been introduced to eliminate the distinction between overseas and domestic deployment for purposes of escheat periods.
- MCUL is working with the sponsor, Committee Chair and MI Dept of Treasury to refine the language to provide maximum protection on various accounts for deployed military personnel.
- Action is expected soon in the Senate Families, Seniors and Veterans Committee.