

VIRGINIA GENERAL ASSEMBLY

2021 General Assembly Session

Legislative Summary

June 28, 2021

NOTE: This Legislative Summary is provided to members of the Virginia Credit Union League as a service to its members. It represents a summary only of legislation identified as relevant to many League members. It is not intended to be comprehensive or detailed enough for any member or other third party to rely upon it as legal advice and shall not be construed as providing such advice. Members should consult their own legal counsel for their interpretation of the complete text of each bill or they may contact the League office for further direction.

NOTE FURTHER: Unless noted otherwise in the summary for the bill, all legislation signed into law has an effective date of July 1, 2021..

[House Bill 1814](#) Garnishment of wages; protected portion of disposable earnings.

Chief patron: Krizek

Summary as introduced:

Garnishment of wages; protected portion of disposable earnings. Provides that the Virginia minimum hourly wage shall be used to calculate the amount of a person's aggregate disposable earnings protected from garnishment if it is greater than the federal minimum hourly wage.

02/25/21 Governor: Approved by Governor-Chapter 8 (effective 7/1/21)

02/25/21 Governor: Acts of Assembly Chapter text (CHAP0008)

NOTE: The federal minimum hourly wage is \$7.25 while Virginia's current amount is \$9.50 and is set to increase to \$11.00 on January 1, 2022. This change will affect garnishment collections by creditors.

[HB 1848](#) Virginia Human Rights Acts; adds discrimination on the basis of disability.

Chief patron: Sickles

Summary as passed House:

Virginia Human Rights Act; discrimination on the basis of disability. Adds discrimination on the basis of disability as an unlawful discriminatory practice under the Virginia Human Rights Act. The bill also requires employers, with as few as 5 employees, to make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer. The bill also prohibits employers from taking any adverse action against an employee who requests or uses a reasonable accommodation, from denying employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the applicant or employee, or from requiring an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

02/25/21 Governor: Approved by Governor-Chapter 12 (effective 7/1/21)

02/25/21 Governor: Acts of Assembly Chapter text (CHAP0012)

[HB 1882](#) Deeds of trust; amendment to loan document, statement of interest rate of a refinanced mortgage.

Chief patron: Heretick

Summary as passed House:

Deeds of trust; amendment to loan document; statement of interest rate of a refinance mortgage. Provides that a deed of trust (mortgage) that (a) has been recorded and that states that it secures an indebtedness under a loan document and that (b) it also secures indebtedness under such loan document as it may be amended, modified, supplemented, or restated shall secure also such loan document as amended, modified, supplemented, or restated from time to time, without the necessity of recording an amendment to such deed of trust. The bill further requires that the interest rate of a prior mortgage be stated on the first page of a refinance mortgage.

02/25/21 Governor: Approved by Governor-Chapter 13 (effective 7/1/21)

02/25/21 Governor: Acts of Assembly Chapter text (CHAP0013)

NOTE: This bill clarifies that if the conditions stated in (a) and (b) apply, then it will not be necessary to prepare and file in the Circuit Court Clerk’s Office an amendment to the deed of trust.

[HB 1905](#) Economic education and financial literacy required in middle and high school grades; employment.

Chief patron: Cole, J.G.

Summary as introduced:

Economic education and financial literacy required in middle and high school grades; employment arrangements. Adds to objectives- developed and approved by the Board of Education for economics education and financial literacy at the middle and high school levels- the implications of various employment arrangements with regard to benefits, protections, and long-term financial sustainability. “Employment arrangements” as stated in the bill includes full-time employment, part-time employment, independent contract work, freelance work, and 1099 work.

02/25/21 Governor: Approved by Governor-Chapter 25 (effective 7/1/21)

02/25/21 Governor: Acts of Assembly Chapter text (CHAP0025)

NOTE: This measure does not directly affect credit unions but it demonstrates the General Assembly’s continued interest in financial literacy, a topic the League has promoted for years.

[HB 1916](#) Research and development expenses; tax credit available against the bank franchise tax.

Chief patron: Mugler

Summary as introduced:

Research and development tax credits. Provides that the research and development expenses tax credit and the major research and development expenses tax credit shall be available against the bank franchise tax for taxable years beginning on and after January 1, 2021. Under current law, the credits are available only against the individual and corporate income tax. This bill is identical to [SB 1112](#) (Locke), which was also signed into law.

03/11/21 Governor: Approved by Governor-Chapter 47 (effective 7/1/21)

03/11/21 Governor: Acts of Assembly Chapter text (CHAP0047)

HB 1919 Local green banks; authorizes a locality, by ordinance, to establish.

Chief patron: Kory

Summary as passed:

Local green banks. Authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies, defined in the bill. The bill establishes certain powers and functions of a green bank, including developing rules and procedures, financing and providing loans for clean energy projects, and stimulating demand for renewable energy. The bill requires the green bank to be a public entity, quasi-public entity, depository bank, or nonprofit entity and requires the locality to hold a hearing and publish notice of the hearing in a newspaper of general circulation prior to establishing the green bank.

03/30/21 Governor: Approved by Governor-Chapter 405 (effective 7/1/21)

03/30/21 Governor: Acts of Assembly Chapter text (CHAP0405)

NOTE: Under this purely permissive legislation and in order to encourage investments in clean energy, a locality may include a requirement that private lending institutions have the opportunity to participate in the green bank.

HB 1964 State Corporation Commission; supervisory merger or transfer of assets of certain credit unions.

Chief patron: Bagby

Summary as passed House:

State Corporation Commission; supervisory merger or transfer of assets of financially unstable credit union. Amends the provisions governing the supervisory merger or transfer of assets of insolvent credit unions to include state credit unions that are financially unstable. The measure removes the requirement that the Commission find that an emergency exists to expedite mergers or sales of assets between credit unions.

03/18/21 Governor: Approved by Governor-Chapter 143 (effective 7/1/21)

03/18/21 Governor: Acts of Assembly Chapter text (CHAP0143)

NOTE: The Virginia Bureau of Financial Institutions requested this legislation which the League did not oppose.

[HB 2018](#) Emergency order for adult protective services; acts of violence, etc., or financial exploitation.

Chief Patron: Mullin

Summary as passed House:

Emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty. Allows a local circuit court, upon a finding that an incapacitated adult has been subjected to financial exploitation (or an act of violence, force or threat), to include in an emergency order for adult protective services such conditions as the court deems necessary to the health and safety of such person or to prevent communication or other contact of any kind by the alleged perpetrator or financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. This bill is identical to [SB 1297 \(Obenshain\), which was also signed into law.](#)

03/18/21 Governor: Approved by Governor-Chapter 207 (effective 7/1/21)

03/18/21 Governor: Acts of Assembly Chapter text (CHAP0207)

NOTE: Even though this bill does not directly impact financial institutions, unlike a number of bills from previous legislative sessions that attempted to impose an affirmative duty on financial institutions, it is included in this Summary to demonstrate the continuing problem with financial exploitation that many legislators have tried to address.

[HB 2099](#) Judgments; limitations on enforcement, judgment liens, settlement agents, effective date.

Chief patron: Coyner

Summary as passed:

Limitations on enforcement of judgments; judgment liens; settlement agents. Reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment. However, this shortened period may be extended up to two times by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. The bill provides that such recordation shall extend the limitations period for 10 years per recordation from the date of such recordation. Under current law, such limitation period may be extended only on motion of the judgment creditor or his assignee. In addition, the bill will now allow a settlement

agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien. The bill has a **delayed effective date of January 1, 2022**, for all provisions except those related to the recordation of a certificate for the extension of a judgment, which are effective in due course.

03/31/21 Governor: Approved by Governor-Chapter 486 (effective - see bill)

03/31/21 Governor: Acts of Assembly Chapter text (CHAP0486)

HB 2161 Active military or a military spouse; prohibits discrimination in public accommodations, etc.

Chief patron: Tran

Summary as passed House:

Active military or a military spouse; prohibits discrimination in public accommodations, etc. Prohibits discrimination in public accommodations, employment, and housing on the basis of a person's military status, defined as a member of the uniformed services of the United States or a reserve component thereof or a spouse or other dependent of the same. This bill is identical to [SB 1410](#) (Bell), which was also signed into law.

03/31/21 Governor: Approved by Governor-Chapter 477 (effective 7/1/21)

03/31/21 Governor: Acts of Assembly Chapter text (CHAP0477)

NOTE: This measure substitutes “military members” for “veterans” in the current law and now will include not only veterans, but active duty military members and their dependents. Credit unions may be subject to the first part of the bill that bars discrimination in providing “services” to the general public but are definitely included in the sections barring discrimination against military members as employees and as borrowers from lending institutions.

HB 2175 Homeowners and tenants of manufactured home parks; housing protections, foreclosures, etc.

Chief patron: Torian

Summary as passed:

Housing Bill of Rights; housing protections; foreclosures; manufactured housing. Provides for various protections for homeowners and tenants of manufactured home parks, including (i) restricting the circumstances under which a court may order a person's primary residence to be sold to enforce a judgment lien; (ii) requiring localities to incorporate into their comprehensive plans strategies to promote manufactured housing as a source of affordable housing; (iii) requiring the Director of Housing and Community Development to develop a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act; (iv) in the case of a deed of trust conveying owner-occupied residential real estate, prohibiting a trustee of such deed of trust from selling such property in a foreclosure sale without receiving an affidavit signed by the party that provided notice of the sale to the owner confirming that such notice was sent to the owner, with a copy of such notice attached to the affidavit; (v) in the case of a deed of trust conveying owner-occupied residential real estate, increasing the notice period for a foreclosure sale from 14 to 60 days and requiring such notice to provide the grantor with information regarding housing counseling; and (vi) requiring the landlord of a manufactured home park to provide tenants who own their manufactured home information about housing assistance and legal aid organizations. The bill also requires the Department of Housing and Community Development to convene a stakeholder group to assist in the development of the statement of tenant rights and responsibilities. **The provisions of the bill related to the specifics of the notice that is required before a trustee can sell a property in a foreclosure sale have a delayed effective date of October 1, 2021.** This bill is identical to [SB 1327](#) (McClellan), which was also signed into law.

03/12/21 Governor: Approved by Governor-Chapter 91 (effective - see bill)
03/12/21 Governor: Acts of Assembly Chapter text (CHAP0091)

NOTE: This legislation is indicative of the difficulties many property owners have faced in making timely mortgage payments, sometimes due to the financial hardships of their tenants, attributable to COVID-19. The League worked with representatives from the Virginia Poverty Law Center (VPLC) and the Virginia Bankers Association (VBA) to ensure that the bill language did not hinder financial institutions' ability to utilize foreclosure, or the possibility of foreclosure, when necessary.

[HB 2307](#) Consumer Data Protection Act; personal data rights of consumer, etc.

Chief patron: Hayes

Summary as passed:

Consumer Data Protection Act. Establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for purposes of targeted advertising, the sale of personal data, or profiling of the consumer. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill directs the Joint Commission on Technology and Science to establish a work group to review the provisions of this act and issues related to its implementation, and to report on its findings by November 1, 2021. **The bill has a delayed effective date of January 1, 2023.** This bill is identical to [SB 1392](#) (Marsden), which was also signed into law.

03/02/21 Governor: Approved by Governor-Chapter 35 (effective - 1/1/23)

03/02/21 Governor: Acts of Assembly Chapter text (CHAP0035)

NOTE: This is landmark legislation that will impose certain responsibilities and liabilities on many business entities in the Commonwealth; however, it specifically exempts financial institutions from its application. The League participated in a coalition effort to develop the bill's language and protections for financial institutions.

[HB 2312](#) Marijuana; legalization of simple possession, etc.

Chief patron: Herring

Summary as passed House:

Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of marijuana, modifies several other criminal penalties related to marijuana, and provides for an automatic expungement process for those convicted of certain marijuana-related crimes to have such crimes automatically expunged by July 1, 2026. The bill creates the Virginia Cannabis Control Authority (the Authority) and establishes a regulatory structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. **The bill has staggered effective**

dates and allows retail marijuana sales to begin on January 1, 2024. This bill incorporates [HB 1815](#) and is identical to [SB 1406](#) (Ebbin).

04/07/21 House: Enacted, Chapter 551 (effective - see bill)

04/07/21 Governor: Acts of Assembly Chapter text (CHAP0551)02/05/21

NOTE: This 283-page bill legalizing the retail sale of marijuana and the establishment of a new regulatory Authority contains 2 sentences of utmost importance to credit unions. Those sentences provide that (1) nothing shall require a credit union (or bank) to provide financial services to a licensed marijuana establishment but that (2) if any credit union (or bank) choosing to provide such a service to a licensed marijuana establishment, neither the institution nor any of its officers, directors or employees shall be held liable solely for providing such a service or for further investing any income derived from such a service. We have also been monitoring workgroup activity that has explored opportunities and challenges for financial institutions with regards to the legalization of marijuana.

03/11/21 Governor: Approved by Governor-Chapter 48 (effective 7/1/21)

03/11/21 Governor: Acts of Assembly Chapter text (CHAP0048)

[SB 1160](#) Removal of vehicles involved in accidents; lien of keeper of vehicles.

Chief patron: Suetterlein

Summary as passed:

Vehicles; liens; abandoned vehicles; removing vehicles involved in accidents. Modernizes and improves enforcement of mechanics' and storage liens by (i) transferring notification and auction posting requirements to the Department of Motor Vehicles (the Department); (ii) allowing for independent appraisals to establish accurate vehicle values; (iii) expanding vehicle owner searches to other states and requiring the Department to notify owners in those states; and (iv) creating a limited process for relinquishing mechanics' and storage liens. The bill permits out-of-state requesters to obtain Virginia vehicle information for mechanics' or storage liens or abandoned vehicle enforcement in their states, and clarifies disposal rights, auction requirements, and titling documentation for abandoned vehicles. The Department is authorized to collect administrative fees to cover the expenses associated with these duties. The bill also provides that an entity acting at the direction of law enforcement or the Department of Transportation to remove a vehicle or cargo after an accident shall not be liable for damages or claims resulting from exercise of authority, provided that the entity acted reasonably. The provisions of this bill related to mechanics' and storage liens have a **delayed effective date of January 1, 2022.**

03/25/21 Governor: Approved by Governor-Chapter 374 (effective - see bill)
03/25/21 Governor: Acts of Assembly Chapter text (CHAP0374)

NOTE: This legislation is important to lienholders such as credit unions because it constitutes a complete re-write of several statutes pertaining to vehicles that have been towed and are in storage or have been repaired. Storage charges still cannot exceed \$500 if the vehicle has a lien on it but the tow truck owner or the recovery operator, in addition, “shall have a lien for all normal costs incident to any towing and recovery services furnished for the vehicle.” More explicit provisions are included in the bill for notices by DMV to vehicle owners and lienholders.**Budget Language of Interest**

The Commonwealth’s biennial budget bill ([HB 1800](#) (Torian)) contains language of interest to the League under the Department of Housing and Community Development (DHCD):

Item 114 Q.1. \$10,000,000 is provided to establish a Virginia Community Development Financial Institutions (CDFI) Fund to provide grants to community development financial institutions (CDFIs), community development enterprises (CDE), or other such similar entities as permitted by law, whose primary purpose is to provide financing in the form of loans, grants or forgivable loans to small businesses or community revitalization real estate projects in Virginia. The general funds ... constitute a one-time appropriation of funding to capitalize this program. ... Of the amounts included in this paragraph, up to \$300,000 the second year from the general fund is provided to the Department for administrative costs.

*2. The Department is ... authorized to develop appropriate criteria and guidelines for the use of funding provided to the Virginia Community Development Financial Institution Fund. The Department shall award grant funding based on these criteria and guidelines and may enter into a contractual agreement with eligible CDFIs or similar private entities to make grants and loans to small businesses adversely impacted by the COVID pandemic. In developing such guidelines, the Department shall consider prioritizing state funds for CDFIs, CDEs, and other such entities that do not receive federal funding made available from [federal law]. An eligible qualifying CDFI shall be a community development bank, **community development credit union**, or other similar private entity that the Department finds is (i) established to conduct business legally within the Commonwealth; (ii) subject to oversight by federal or state financial institutions or insurance regulatory agencies, as appropriate; and (iii) eligible for certification by the U.S. Department of Treasury as a community development financial institution or other similar charter or principles which require support of small businesses.*

*3. The community development bank, **community development credit union**, or other similar organization is intended to be a source of targeted lending and investment with the capacity to provide a high degree of leverage for economic development and business support activities within communities throughout the Commonwealth. These activities may include loans and investments to start or expand small businesses, operating and working capital, property renovation or development, and financial services with a focus on small businesses impacted by the COVID pandemic. The entity may also provide services that help ensure that credit is used effectively, such as technical assistance to small businesses and credit counseling to consumers.*

4. On or before December 1 of each year, the Department shall report ... on such other matters regarding the Fund as the Department may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested

NOTE: This state appropriation is \$10M for grants, loans and forgivable loans to be made by community development credit unions and other eligible private entities pursuant to criteria to be developed by the Department of Housing and Community Development and includes up to \$300K for administrative overhead, including the hiring of up to 3 full-time employees.