



April 29, 2021

## Indiana General Assembly Recesses for 2021

### Successful Session in Face of Outside Challenges

The Indiana General Assembly concluded a historic and unusual session on April 22, one week earlier than the originally set date of April 29. As of late last year, leadership in both the House and Senate were working through the details of how a legislative session would functionally operate during the pandemic. Ultimately, lawmakers were able to conduct business with certain measures in place to reduce the risk of exposure for both lawmakers and the general public. Most notably, the House Chamber was relocated to a larger space in the Indiana Government Center South. The Senate Chamber closed its public gallery and moved the senators' voting desks to that location to provide for adequate distancing. Committee hearings took place remotely, based on space accommodations, or in larger rooms when available. As a result, legislators navigated the external challenges of the pandemic to achieve a successful session.

Technically, lawmakers recessed the 2021 session with the intent to come back into session later in the year to address redistricting. The redistricting process is completed legislatively and utilizes U.S. census data when establishing new legislative districts. Once lawmakers are in possession of all necessary census data, it is anticipated they will return to session later this year to complete the work of redrawing the legislative districts for all House, Senate and congressional districts, a process repeated every 10 years.

For the session period that recently concluded, 1,025 bills were introduced between both the Senate and House. Of these, 316 bills, or roughly 31% of the bills introduced, survived the first half of session. At the halfway point, the Indiana Bankers Association was tracking 74 of the 316 bills that had survived the first half of session. Of those 316 bills that survived to the halfway point of session, only 220 bills were ultimately passed to be sent to the governor's desk for signature into law.

Of the bills the IBA was tracking throughout session are several that will have a direct impact on the industry if and when enacted. The first two bills sent to the governor this session to be signed into law were important to the industry. First, HEA 1056 clarified the issue arising from last session's SEA 340, through which the change of "or" to "and" imposed a new requirement of a second witness when

recording documents. The second bill, SEA 1, provided immunity from civil tort liability to any individual, corporation, organization or entity for damages “arising from COVID-19” which occurred on or after March 1, 2020. Both of these bills were effective immediately upon the governor’s signature, becoming law on Feb. 18.

In addition to HEA 1056 and SEA 1, the IBA supported legislation that restated existing law that a deposit account is a contract for the payment of money, which has a six-year statute of limitations (SEA 370). In addition, the state will move to an electronic lien and title system for vehicles under SEA 400. This bill ushers in a long-awaited process that will allow vehicle transactions to occur in a more efficient manner using new technology.

On a broader COVID-19 relief front, the General Assembly enacted a \$60 million Small Business Restart Grant Program eligible for small businesses with a demonstrated loss of more than 30% in revenue in 2020 compared to 2019 and fewer than 100 employees, among other criteria. Businesses are eligible to receive up to \$50,000 in support. In terms of economic development, the state created a new economic development fund in the state budget, modeled after the Regional Cities Initiative. The fund, titled Regional Economic Acceleration and Development Initiative (READI), is designed to funnel capital (\$500 million appropriation) to communities in a similar manner to the Regional Cities program.

Finally, each session comes with challenges in the form of bills or legislative ideas that would create significant disruptions to the banking industry, and this year was no different. The IBA was successful in advocating to prevent several troubling bills from passing. HB 1493 would have prevented interchange fees from being applied to the sale tax portion of a retail transaction. SB 49 would have created significant liability, both legally and financially, for a lender that chooses not to do business with a gun dealer or manufacturer. These issues are expected to reemerge in upcoming years, and the IBA will remain involved in the ongoing debate.

While much has changed as a result of the pandemic, the positive impact the Indiana General Assembly has had on the Indiana banking industry has remained strong. The IBA extends special thanks to the many legislators and bankers who worked toward satisfactory outcomes on issues of concern to the banking industry. The effort and engagement put forward by so many ensures Indiana continues to be a state in which financial institutions can serve their customers well and positively impact Indiana communities and the broader economy.

## Legislation That Passed the 2021 Indiana General Assembly

### **SEA 1 – Civil Immunity Related to COVID-19**

*Author: Sen. Mark Messmer, R-Jasper*

*House Sponsor: Rep. Jerry Torr, R-Carmel*

#### ***Bill summary***

Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct

(including fraud and intentionally tortious acts). Defines “COVID-19 protective product” and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts). Prohibits class action suits.

***Why it matters***

SEA 1 is a broadly applied immunity bill from COVID-19 liability supported by a coalition of business trades and other individual entities. The IBA supported the general approach to provide immunity to businesses from COVID-19-related lawsuits.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**SEA 188 – Revised Unclaimed Property Act**

*Author: Sen. Eric Koch, R-Bedford*

*House Sponsor: Rep. John Young, R-Franklin*

***Bill summary***

Repeals the Unclaimed Property Act and replaces it with the Revised Unclaimed Property Act. Makes conforming amendments.

***Why it matters***

The Revised Unclaimed Property Act created by the Uniform Law Commission creates a regulatory framework for holders of assets to deal with assets that have gone dormant. Indiana’s current law governing unclaimed property would be replaced by the proposed revised uniform law. Because banks are holders of these assets for their customers, it is essential to ensure that the revised law is workable and provides financial institutions the tools they need to handle dormant assets. The IBA Government Relations team worked with the bill author on numerous amendments, resulting in sweeping changes in SEA 188. Additional changes were made in conference committee to exempt points through credit and debit rewards cards from escheatment while still in point form. Ultimately, after the many changes to the bill, the IBA GR Team felt comfortable with the rewrite of the Unclaimed Property Act.

***What happened***

The bill passed the General Assembly and awaits the governor’s signature.

**SEA 234 – Withholding Tax Remittance**

*Author: Sen. Linda Rogers, R-Granger*

*House Sponsor: Rep. Doug Miller, R-Elkhart*

***Bill summary***

Requires the Indiana Department of Revenue to provide written notice, by electronic means, to each employer that is registered in the department’s online Indiana Taxpayer Information Management

Engine (INTIME) program and whose employer's Form WH-1 monthly withholding tax report or withholding tax remittance is past due. Requires each payroll service provider to annually register with the DOR beginning Jan. 1, 2022. Specifies the contents of the annual registration form. Defines "payroll service provider" and "responsible person" for purposes of these provisions. Provides that the department may charge an annual payroll service provider registration fee for purposes of the registration program. Provides that a provider shall be permitted to retain any income generated on business client funds while held in a provider's legal possession pending remittance to authorized payees, if the client agreement expressly permits it and the provider complies with certain rules. Provides that a payroll service provider contract must include a provision that specifies that if the payroll service provider fails to deposit or remit a business client's employer withholding taxes when due, and the failure is caused by an error or omission of the payroll service provider and not by the business client, the payroll service provider shall be required to reimburse the business client for the business client's payment of any penalties or interest assessed by the department as a result of the failure. Provides that, if a provider knowingly or intentionally fails to remit taxes withheld, the provider is liable and responsible persons shall be personally liable for such taxes that were withheld and not remitted, along with penalties and interest. Provides that a responsible person of the provider who knowingly or intentionally fails to remit taxes that were withheld commits a Class A misdemeanor, and increases the penalty depending on the amount of taxes that were not remitted. Provides that the liability shall not be construed to relieve the liability of the employer or any person otherwise with a duty to withhold. Provides that the employer's address shall be the address of record with the DOR for withholding tax purposes, and that a payroll service provider may not change the address of record with the department.

### ***Why it matters***

The bill makes changes to the way payroll processing companies hold and remit withholding taxes to the state. Drafted to help fight against fraud, the bill would require payroll processors to register with the state and to adhere to other regulations to ensure tax funds are being remitted properly. The bill also establishes penalties for knowingly and intentionally failing to remit taxes. Some member banks act as payroll processors for their customers, and the IBA GR team worked to ensure this requirement would not overly burden them. The IBA did not receive any feedback from member banks in opposition to the bill.

### ***What happened***

The bill passed the General Assembly and was signed by the governor.

## **SEA 332 – Publication of Notice by Political Subdivisions**

*Author: Sen. Jim Buck, R-Kokomo*

*House Sponsor: Rep. Doug Miller, R-Elkhart*

### ***Bill summary***

Allows a political subdivision, when required by statute to publish a notice two or more times, to make the first publication of notice in a newspaper and any subsequent publications of the notice on the official website of the political subdivision. Requires the political subdivision or contractor that maintains the political subdivision's official website to provide proof of publication of the notice on the

official website. Provides that if, with regard to a sheriff's sale of real property to execute a judgment, the sheriff is not able to procure publication of the notice in a newspaper of general circulation within the county, the sheriff may publish the notice on the website of each county where the real estate is located (instead of dispensing with the publication of notice entirely).

***Why it matters***

Among other publication changes, the bill originally provided that if, with regard to a sheriff's sale of real property to execute a judgment, the sheriff is not able to procure publication of the notice in a newspaper of general circulation within the county, the sheriff may publish the notice on the website of each county where the real estate is located (instead of dispensing with the publication of notice entirely). The bill also sets up an optional procedure for the sheriff to post the publication once in a local newspaper and twice on a county-run website, instead of three times in the newspaper as under current law. The IBA supports legislation that identifies more cost-effective options for the borrower and the lender regarding publication costs.

***What happened***

The bill passed the General Assembly and awaits the governor's signature.

**SEA 346 – Financial Institutions and Consumer Credit**

*Author: Sen. Eric Bassler, R-Washington*

*House Sponsor: Rep. Martin Carbaugh, R-Fort Wayne*

***Bill summary***

For purposes of the statutes governing: (1) first-lien mortgage transactions; (2) the Uniform Consumer Credit Code; and (3) financial institutions; changes references to federal laws within those statutes from federal laws as in effect on Dec. 31, 2019, to federal laws as in effect on Dec. 31, 2020. Amends the statute concerning loans made by a credit union to the credit union's members to eliminate certain requirements with respect to loans secured by real estate. Amends the definition of "check" for purposes of the statute governing licensed cashers of checks to remove a reference to a "personal money order."

***Why it matters***

SEA 346 is the annual bill of the Indiana Department of Financial Institutions, which every year suggests changes to law that it deems necessary, based primarily on findings from examiners. The IBA supported the general intent of the legislation, but did not support the alignment of the credit union loan provision with federal regulations.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**SEA 370 – Limitation on Actions Concerning Deposit Accounts**

*Author: Sen. Andy Zay, R-Huntington*

*House Sponsor: Rep. Martin Carbaugh, R-Fort Wayne*

**Bill summary**

Amends the statute concerning the statute of limitations for actions upon promissory notes, bills of exchange, or other written contracts for the payment of money to include actions upon deposit accounts. Specifies that the bill's provisions are intended to be a restatement of the law and not a substantive change in the law, and as such shall be applied with respect to deposit accounts executed during the applicable time frames set forth in the statute.

**Why it matters**

The bill clarifies the statute concerning the statute of limitations for actions upon promissory notes, bills of exchange or other written contracts for the payment of money to include actions upon deposit accounts. This clarification aligns with what is already interpreted under Indiana case law. The bill was sought by the IBA to blunt the egregious settlements sought through recent class action lawsuits on overdraft or NSF fee charges. The bill was an emergency act, meaning it became law as soon as it passed and includes declaratory language that establishes the statute of limitations on a deposit account has always been six years.

**What happened**

The bill passed the General Assembly and was signed by the governor.

**SEA 383 – Various Tax Matters**

*Author: Sen. Travis Holdman, R-Markle*

*House Sponsor: Rep. Tim Brown, R-Crawfordsville*

**Bill summary**

Requires a corporation with gross income of more than \$1 million to file its corporate income tax return in an electronic manner specified by the Indiana Department of Revenue. Provides a sales tax exemption for a utility scale battery energy storage system. Provides a sales tax exemption for public safety equipment and materials. Provides certain procedures for reporting federal partnership audit adjustments for purposes of the state adjusted gross income tax and financial institutions tax in order to conform with changes in federal law. Provides that the DOR may prescribe procedures: (1) by which a pass-through entity remits tax; (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding; (3) for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and (4) by which an entity may request alternative withholding arrangements.

Requires the daily parimutuel breakage on wagers to be paid to the DOR, instead of the auditor of state, for deposit in the appropriate breed development fund. Requires a utility provider to maintain records sufficient to document each one-to-one meter change. Allows a person to request that the DOR reissue an exemption certificate with a new meter number in the event of a one-to-one meter change. Removes duplicate provisions regarding electronic filing requirements for sales tax and withholding tax remittance. Removes certain unnecessary information currently required for employer withholding tax reporting forms. Specifies that the penalty provisions in current law for failure to make a payment by electronic funds transfer also apply to a failure to make a payment by any other electronic means.

Clarifies that an individual's estimated income tax filing and payment requirements include local income taxes. Clarifies the penalty calculation for failure to make estimated tax payments, including estimated utility receipts tax and financial institutions tax payments. Provides that a taxpayer may elect to claim a tax credit against the taxpayer's Indiana adjusted gross income tax liability for the amount of tax that is imposed in a foreign country, but not due from the taxpayer under the laws of that foreign country until a tax year after the tax year in which the income subject to the foreign country's tax is included in the taxpayer's Indiana adjusted gross income (provides for retroactive application to tax years beginning after Dec. 31, 2016).

Sets a floor on the periodic change in the gasoline tax and the special fuel tax rates each year of not less than the rates in the preceding year. Provides that the fee to register a trailer that is registered under the International Registration Plan shall be prorated based on the Indiana mileage percentage of the registrant's trucks and tractors registered under the IRP. Allows the DOR to release the name and business address of a person who is issued a retail merchant's certificate for the purpose of reporting the status of the person's certificate. Provides that the provision in current law requiring an out-of-state merchant to collect sales tax on retail transactions made in Indiana if certain threshold conditions are met extends to the following: (1) the waste tire management fee; (2) the fireworks public safety fee; (3) the prepaid wireless service charge.

Provides that a township trustee casts the deciding vote to break a tie vote in the new township board, except for a tie vote on increasing the township trustee's compensation. Makes a clarifying change to redevelopment tax credit provisions. Delays the expiration of provisions providing that a local income tax council for a county with a single voting bloc must vote as a whole in order to exercise its authority to increase (but not decrease) a local income tax rate in the county.

### ***Why it matters***

This bill is the annual Department of Revenue tax bill. It contains a number of changes to Indiana's tax code related to both the corporate and Financial Institutions Tax. This includes certain procedures for reporting federal partnership audit adjustments for purposes of the state Adjusted Gross Income Tax and Financial Institutions Tax in order to conform with changes in federal law. The bill also provides that the DOR may prescribe procedures: (1) by which a pass-through entity remits tax; (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding; (3) for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and (4) by which an entity may request alternative withholding arrangements. The IBA monitored the legislation for adverse impacts on financial institutions and did not have concerns with the language as passed.

### ***What happened***

The bill passed the General Assembly and awaits the governor's signature.

## **SEA 400 – Statewide Electronic Lien and Title System**

*Author: Sen. Chris Garten, R-Charlestown*

*House Sponsor: Rep. Jim Pressel, R-Rolling Prairie*

### ***Bill summary***

Requires the Bureau of Motor Vehicles to implement a statewide electronic lien and title system (system) to process: (1) vehicle titles; (2) certificate of title data in which a lien is notated; and (3) the notification, maintenance and release of security interests in vehicles; through electronic means instead of paper documents. Provides that the BMV may: (1) contract with one or more qualified vendors to develop and implement a system; or (2) develop an interface to provide qualified electronic lien service providers secure access to data to facilitate the creation of a system. Sets forth certain requirements that apply if the bureau elects to implement the system through a qualified vendor versus through qualified electronic lien service providers. Specifies that a contract entered into between the BMV and: (1) a qualified vendor; or (2) a qualified electronic lien service provider; may not provide for any costs or charges payable by the bureau to the qualified vendor or the qualified electronic lien service provider. Sets forth dates by which the BMV must implement and allow or require the use of: (1) a statewide electronic lien system; and (2) a statewide electronic title system. Sets forth certain conditions that apply to the use of a statewide electronic lien system implemented by the BMV under these provisions. Provides that under certain circumstances, the bureau may not charge state agencies or their agents with certain fees associated with the statewide electronic lien and title system. Authorizes the bureau to adopt rules, including emergency rules, to implement these provisions.

### ***Why it matters***

SEA 400 requires the Bureau of Motor Vehicles to implement a statewide electronic lien and title system to process: (a) vehicle titles; (b) certificate of title data in which a lien is notated; and (c) the notification, maintenance and release of security interests in vehicles; through electronic means instead of paper documents. The bill requires the use of this system for liens starting July 1, 2022, and for titles starting July 1, 2023, for all entities that are part of the transaction, including lenders. The IBA worked closely with the author of the legislation and had no objections to the mandated use of these systems based on the positive benefit of the electronic lien and title process for lenders.

### ***What happened***

The bill passed the General Assembly and was signed by the governor.

## **HEA 1001 – State Budget**

*Author: Rep. Tim Brown, R-Crawfordsville*

*Senate Sponsor: Sen. Ryan Mishler, R-Bremen*

### ***Bill summary***

This bill appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes. The bill also makes a number of other changes. Those more relevant to financial institutions are listed below.

**Regional Economic Acceleration and Development Fund:** The bill establishes the READI fund to provide grants and loans to support economic development and regional economic acceleration and development. It provides that the Indiana Economic Development Corporation shall administer the

fund. It also requires the IEDC to establish a policy for the Regional Economic Acceleration and Development Initiative. The bill repeals the Regional Cities Development Fund.

**Internal Revenue Code:** The bill provides certain add backs and subtractions used in determining Indiana adjusted gross income. It changes the definition of “Internal Revenue Code” in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021. The bill provides that in the case of an amendment to a federal statute that is made outside of Title 26 of the U.S. Code and affects federal adjusted gross income, federal taxable income, federal tax credits or other federal tax attributes, the federal statute shall be considered to be part of the Internal Revenue Code as amended and in effect on March 31, 2021.

**Venture Capital Investment Tax Credit:** The bill amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund). The bill provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations, and the fund makes investments according to specified policy requirements and priorities. The bill provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023. It specifies the maximum available tax credits in a calendar year with regard to a qualified fund. It also increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women’s business enterprise. It caps the total amount of credits that the IEDC may award in a calendar year at \$20 million, provided that not more than \$7.5 million is awarded for proposed investments in a qualified fund.

**Hoosier Business Investment Tax Credit:** The bill provides that, in the case of the Hoosier business investment tax credit, the IEDC may under a written agreement accelerate payment (at a discounted amount) of any unused excess tax credit that certain taxpayers would otherwise be eligible to carry forward to a subsequent tax year. It provides that a written agreement for an accelerated payment may include a provision for liquidated damages: (1) for failure to comply with the terms and conditions for the tax credit; (2) that are in addition to any tax assessment the Department of Revenue may make for noncompliance; and (3) in the case of a partnership, S corporation or similar pass-through entity, that are personally guaranteed by the partners, shareholders or members of the pass-through entity. It provides that the total amount of accelerated tax credits that the IEDC may approve may not exceed \$17 million in a state fiscal year.

**Foster Care Support Tax Credit:** The bill provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year. It defines a “qualifying foster care organization.” It also caps the total amount of the tax credits allowed in any state fiscal year to \$2 million and sunsets the tax credit on July 1, 2025.

### ***Why it matters***

The bill establishes Indiana’s operating budget for the coming two years. It also makes a number of other changes that fall outside of the budget drafting process, including an enhancement of the Venture

Capital Investment Tax Credit, the creation a program similar to Regional Cities titled Regional Economic Acceleration and Development Initiative (READI) and language that brings the Indiana tax code up-to-date with federal tax code changes made in 2020. The bill may also incorporate federal tax provisions that are decoupled from state tax code for purposes of liability. The Department of Revenue added a provision that will reduce net operating loss deductions available to individual taxpayers as related to pass-through entities.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1004 – Small Business Restart Grant Program**

*Author: Rep. Shane Lindauer, R-Jasper*

*Senate Sponsor: Sen. Ryan Mishler, R-Bremen*

***Bill summary***

This bill establishes the Hoosier Hospitality Small Business Restart Grant Program to provide grants to eligible entities to accelerate economic recovery from the impacts of the COVID-19 pandemic. It establishes the Small Business Restart Grant Fund. The bill provides that the Indiana Economic Development Corporation administer the program and fund. It provides criteria for grants. The bill allows the IEDC to award grants from the fund. The bill provides parameters for the program. However, it authorizes the IEDC to change the parameters of the program, which, if a change is made, must be reviewed by the Budget Committee at the meeting following the change.

***Why it matters***

The bill establishes the Hoosier Hospitality Small Business Restart Grant Program to provide grants to eligible businesses based on certain conditions. An eligible entity may apply for a grant under the program for a reimbursement of up to 80% of non-payroll business expenses and up to 100% of payroll expenses incurred in Indiana between March 1, 2020, and April 1, 2021. The amount of a grant to an eligible entity is not to exceed \$10,000 for each month during the identified period that the entity can demonstrate a monthly gross revenue loss of at least 30% when compared to that entity's average monthly gross revenue for calendar year 2019. The maximum total grant amount awarded to any eligible entity may not exceed \$50,000. The program is administered by the Indiana Economic Development Corporation.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1056 – Recording Requirements**

*Author: Rep. Jerry Torr, R-Carmel*

*Senate Sponsor: Sen. Liz Brown, R-Fort Wayne*

**Bill summary**

This bill amends the requirements for instruments and conveyances to be recorded. The bill adds instances in which an instrument is considered validly recorded for purposes of providing constructive notice. It also defines certain terms.

**Why it matters**

This bill is the fix to the second witness requirement to record instruments that arose from the interpretation of language change “or” to “and” in SEA 340 from the 2020 session. The bill also retroactively applies the language to all instruments recorded after July 1, 2020. This was a priority bill for the IBA.

**What happened**

The bill passed the General Assembly and was signed by the governor.

**HEA 1079 – Practice of Dentistry; Virtual Claims Payments**

*Author: Rep. Dennis Zent, R-Angola*

*Senate Sponsor: Sen. Ed Charbonneau, R-Valparaiso*

**Bill summary**

The bill provides that a health insurance plan, including a health management organization contract, may not require a dental provider to accept payment under the health insurance plan by virtual claim payment. The bill requires a health insurer, including a health maintenance organization, to do the following before providing payment to a dental provider by electronic funds transfer, including by virtual claim payment: (1) notify the dental provider of fees associated with the electronic funds transfer, (2) advise, concerning virtual claim payments, the dental provider of the methods of payment available under the health insurance plan, and provide clear instructions to the dental provider as to how to select an alternate payment method.

**Why it matters**

Included in a broader bill, HEA 1079 contains language that governs virtual claim payments. The bill would require a health insurer or contracted vendor of a health insurer to notify the dental provider as to whether the health insurer is receiving a portion of the fee charged for the electronic funds transfer payment. The IBA had concerns about requiring disclosure to dental providers of any profit-sharing of fees between health insurers and contracted vendors, which are often banks, for electronic funds transfer payments and worked with the bill author to remove that provision. With the provision in question removed from the bill, the IBA was neutral to the legislation.

**What happened**

The bill passed the General Assembly and was signed by the governor.

**HEA 1115 – Criminal Law Matters**

*Author: Rep. Greg Steuerwald, R-Danville*

*Senate Sponsor: Sen. Michael Young, R-Indianapolis*

### ***Bill summary***

The bill specifies that a conviction for certain sex offenses requires mandatory revocation of a teaching license. It provides that bail provisions that apply to persons on probation and parole also apply to persons on community supervision. It removes and replaces certain references to “official investigations,” “official proceedings” and methods of reporting. The bill repeals synthetic identity deception and consolidates it with identity deception. The bill makes attempted murder a predicate offense for the use of a firearm sentence enhancement. It repeals and consolidates various fraud and deception offenses. It defines “financial institution” for purposes of crimes involving financial institutions. The bill repeals or decriminalizes certain infrequently charged misdemeanors. The bill provides a procedure for a law enforcement officer to request a blood sample if the law enforcement officer has probable cause to believe that a person has committed the offense of operating a vehicle or motorboat while intoxicated, causing: (1) serious bodily injury; or (2) death or catastrophic injury. The bill provides that the law enforcement training board may establish certain standards for training programs.

### ***Why it matters***

This omnibus criminal law matters includes language originally from SB 197 that consolidates Indiana’s fraud statutes, including those against a financial institution, into a singular broad definition. The IBA previously worked with the author to make technical changes to the language to ensure that the language in SB 197 continues to provide Indiana’s prosecutors the same, if not better, tools in enforcing penalties on those who commit crimes against financial institutions. The IBA was neutral on the legislation.

### ***What happened***

The bill passed the General Assembly and was signed by the governor.

## **HEA 1255 – Probate and Property Matters**

*Author: Rep. John Young, R-Franklin*

*Senate Sponsor: Sen. Aaron Freeman, R-Indianapolis*

### ***Bill summary***

This bill has the following provisions:

**Wills:** The bill provides that a testator may execute a will in two or more counterparts. It specifies certain requirements for a will executed in two or more counterparts. It provides that a self-proving clause may be incorporated into or affixed to a will. It specifies certain requirements for self-proving clauses and wills. It specifies that certain photographic, video and audio evidence may be used as evidence with respect to the execution of a will. It exempts a will from the need for a recertification or a re-execution in certain instances. It specifies certain requirements concerning the execution of an electronic will. It allows an attorney or paralegal to supervise the execution of an electronic will. It exempts electronic wills from the need for recertification or re-execution in certain instances. It specifies that certain photographic, video and audio evidence may be used as evidence with respect to the execution of an electronic will. It also specifies certain requirements concerning the execution of a power of attorney.

**Powers of Attorney:** The bill allows a power of attorney to be executed in two or more counterparts. It specifies certain requirements for the execution of a power of attorney in two or more counterparts. It allows a self-proving clause to be incorporated into or affixed to a power of attorney. It specifies certain requirements for self-proving clauses incorporated into or affixed to a power of attorney. It specifies that certain photographic, video and audio evidence may be used as evidence with respect to the execution of a power of attorney. **Electronic Power of Attorney:** The bill provides that an electronically signed and notarized electronic power of attorney is valid if the electronic power of attorney complies with certain specified requirements. It also specifies certain requirements for attesting witnesses involved in the execution of a power of attorney or an electronic power of attorney. It allows a self-proving clause to be incorporated into or affixed to a power of attorney.

**Trusts/Conveyances/Instruments:** The bill specifies that certain photographic, video and audio evidence may be used as evidence with respect to the execution of an electronic power of attorney. It provides that certain persons are ineligible to sign certain trust instruments. It requires certain transfer on death conveyances to occur in the presence of a disinterested witness. It repeals certain provisions concerning mortgages, conveyances and other written instruments that are executed in a foreign country. It repeals certain provisions concerning the affixing of a private seal or ink scroll on certain conveyances involving land or interests in land. It specifies certain requirements concerning land conveyances performed by attorneys in fact. It requires certain notarial acts to accompany the recording of certain conveyances. It requires an English translation for certain instruments, acknowledgments and proofs when the original document is not in English. It repeals a provision concerning the recording of a conveyance, mortgage or other instrument in a county other than the county where the conveyance, mortgage or other instrument is required to be recorded. It repeals a provision concerning the recording of a conveyance that is acknowledged outside Indiana but within the United States. It specifies: (1) certain prerequisites; and (2) a certain form; for the recording of certain instruments. It repeals a provision concerning the receipt of an acknowledgment by a public officer. It specifies that an instrument's acknowledgment or proof is incomplete when an instrument does not include an accompanying certificate. It provides that the transcript of an instrument that is recorded without a certificate cannot be read into or received as evidence. It also specifies requirements concerning electronic recording of certain instruments concerning real property.

**County Recorders:** The bill requires county recorders to implement specified functions concerning the: (1) acceptance; (2) receipt; (3) indexing; (4) storage; (5) archiving; and (6) transmittal; of electronically recorded instruments. It specifies certain requirements concerning the recording of a paper or tangible copy of an electronic instrument. It repeals a provision concerning the acknowledgment of certain instruments and the performance of certain notarial acts for a person serving in the armed forces, merchant marine or outside the United States in connection with a wartime activity. It repeals provisions concerning: (1) certain notarial acts; and (2) acknowledgments; and their respective uses as prima facie evidence. It repeals a provision concerning certain executed instruments and a failure to state the location of the instrument's execution or any accompanying acknowledgment, if applicable. It provides that certain notarial acts are considered to have been performed in Indiana when certain specified criteria are met. It also requires a county recorder's office to provide notice of office closures that last three or more days. It defines certain terms. It makes conforming amendments.

***Why it matters***

This bill comes from the Indiana Bar Association and makes various changes to wills, powers of attorney, trust, conveyances and county recorders. Notably, the bill sets forth new procedures for electronic execution of certain documents. The bill also places requirements on county government to accept and record electronic documents. County courthouses being closed during the pandemic presented challenges to the timely recording of documents.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1271 – Department of Local Government Finance**

*Author: Rep. Dan Leonard, R-Huntington*

*Senate Sponsor: Sen. Eric Bassler, R-Washington*

***Bill summary***

The bill makes a number of changes to local government finance and oversight including: adjustments of certain fees, notification process for certain hearings, and other changes related to local government funds and taxation.

The bill extends the sunset date for provisions that permit certain political subdivisions to sell bonds at a negotiated sale from July 1, 2021, to July 1, 2023, and includes all counties, townships, cities, towns and school corporations under those provisions.

***Why it matters***

The extension of the application of negotiated bonds is new to Indiana. Until several years ago, Indiana governmental entities were only allowed to sell bonds on a competitive basis. State law was changed to permit the sale of negotiated bonds in certain circumstances. Language in HEA 1271 extended the universe of entities that may sell negotiated bonds.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1314 – Recorded Discriminatory Covenants**

*Author: Rep. Jerry Torr, R-Carmel*

*Senate Sponsor: Sen. Scott Baldwin, R-Noblesville*

***Bill summary***

This bill permits a person to file a statement or notice that a recorded discriminatory covenant is invalid and unenforceable.

***Why it matters***

The bill makes an important change in creating a process to permit a person to file a statement or notice

that a recorded discriminatory covenant is invalid and unenforceable. The IBA supported this change in law.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1418 – Economic Development Issues**

*Author: Rep. Sharon Negele, R-Attica*

*Senate Sponsor: Sen. Jon Ford, R-Terre Haute*

***Bill summary***

Indiana Economic Development Corporation: It provides that application information declared confidential by the IEDC is exempt from public disclosure under the Access to Public Records Act. (Under current law, only application information relating to the Indiana 21st Century Research and Technology Fund is exempt from public disclosure if declared confidential by the IEDC.) The bill removes the responsibility of the governor to appoint a president of the IEDC and provides instead that the secretary of commerce is also the president of the IEDC. It requires the IEDC to post to a transparency portal on the IEDC’s website: (1) final offer of public financial resources to which the IEDC is a party; and (2) reports submitted by the IEDC to the General Assembly.

It provides that the IEDC act as the small business ombudsman. (Under current law, the IEDC designates a single IEDC employee as the small business ombudsman.) It amends the definition of “lender” for purposes of the capital access program. Indiana Real Estate Commission: The bill deletes language concerning the composition of the Real Estate Commission.

***Why it matters***

The bill was initiated with the engagement of the Indiana Economic Development Corporation. Notably, it was amended in the Senate Commerce and Technology Committee to make changes to the IEDC’s Capital Access Program. The amendment removed the sunset provision for nontraditional Small Business Administration lenders (microloans) that would have terminated their access to the CAP. The amendment also added non-credit union community development financial institutions to the list of entities in the statute that would be permitted to use the CAP. (There is only one entity eligible to participate.) The IBA did not have concerns with changes.

***What happened***

The bill passed the General Assembly and was signed by the governor.

**HEA 1462 – Secretary of State Securities Division Matters**

*Author: Rep. Bob Heaton, R-Terre Haute*

*Senate Sponsor: Sen. Travis Holdman, R-Markle*

***Bill summary***

This bill has the following provisions: (1)allows the Indiana Securities Commissioner to request additional information for determining whether a franchise offer or sale is exempt from registration

requirements; (2) provides that a continuing care retirement community's annual disclosure statement must be filed not later than 12 months following the end of its fiscal year; (3) provides that an individual may not engage in loan processing activities unless certain requirements have been met; (4) provides that a registered mortgage loan originator is not required to obtain a license under the law governing loan brokers; (5) provides that the Indiana Securities Division may discipline an individual who fails to comply with disclosure requirements; (6) adds a definition for "branch office" and makes changes related to unlawful acts for licensed collection agencies.

### ***Why it matters***

The bill is the annual Indiana Securities Division legislation. The bill amends IC 23-19-4-12 to clarify that Indiana securities registrants are subject to current data breach disclosure requirements of IC 24-4.9 and may be subject to discipline for failure to comply. The bill also creates a new section to clarify that a federally registered mortgage loan originator is exempt from state licensure under the Indiana Loan Broker Act. The bill made several other changes as well. The IBA was neutral on the impact of the legislation.

### ***What happened***

The bill passed the General Assembly and was signed by the governor.

## **HEA 1464 – Business Law**

*Author: Rep. Martin Carbaugh, R-Fort Wayne*

*Senate Sponsor: Sen. Andy Zay, R-Huntington*

### ***Bill summary***

This bill has the following provisions: (1) provides that the secretary of state may remove a name or assumed name from its entity filing records if a name or assumed name falsely indicates or implies that the domestic filing entity or the foreign filing entity is, or is connected with, a government agency of this state, another state or the United States; (2) expands what qualifies as an emergency as it relates to shareholder meetings; (3) sets forth the actions a corporation may take to address an emergency, including postponing a meeting or conducting a meeting by means of remote communication; (4) provides that a nonprofit corporation may hold meetings by means of remote communication, if provided for in the nonprofit corporation's bylaws; (5) allows a public corporation governed by IC 23-1 to elect not to have a staggered board system if the board of directors adopts a bylaw expressly electing not to; (6) provides that trademark filings shall be submitted electronically to the SOS.

### ***Why it matters***

The bill incorporates annual revisions from the Indiana Business Law Commission. Notably, the bill expands what qualifies as an emergency for shareholder meetings and establishes actions a corporation may take to address an emergency, including postponing a meeting or conducting a meeting by means of remote communication.

### ***What happened***

The bill passed the General Assembly and was signed by the governor.

## Legislation That Died During the 2021 Indiana General Assembly

### **SB 49 – Unlawful Viewpoint Discrimination**

*Author: Sen. James Tomes, R-Wadesville*

#### ***Bill summary***

Provides that it is an unlawful, discriminatory practice for a financial institution or governmental entity to refuse to do business with, or otherwise discriminate against, a person because the person supports or is engaged in the lawful commerce of firearms, firearms accessories or ammunition. Provides an exemption with respect to certain practices engaged in by a financial institution for a legitimate business reason or to comply with the directive of a regulator. Provides for a civil cause of action for a person aggrieved by an unlawful discriminatory practice. Provides that the attorney general may bring a civil action in the name of the state against a person believed to be engaging in, or to have previously engaged in, an unlawful discriminatory practice. Provides that if the attorney general prevails in such an action, the attorney general shall recommend to the governor the discontinuation of state business relations with any person found to have engaged in an unlawful discriminatory practice.

#### ***Why it matters***

SB 49 presents major issues for lenders. The bill essentially forces lenders to lend to certain businesses, unless they can prove legitimate business practices prevented them to, which is overly vague and unacceptable for the industry. The bill exposes lenders to significant liability for choosing not to lend to certain businesses, including attorney general enforcement and a civil cause of action. The IBA opposed the bill.

#### ***What happened***

The bill did not receive a hearing in the Senate.

### **SB 67 – Call Center Work and Consumer Protection**

*Author: Sen. David Niezgodski, D-South Bend*

#### ***Bill summary***

Requires the Indiana Economic Development Corporation to compile a list of all employers that relocate a call center to a foreign country and to disqualify employers on that list from state grants, loans and tax credits. Requires an employer receiving a state grant, loan or tax credit to notify the IEDC if the employer intends to relocate a call center. Imposes a civil penalty on an employer that does not notify the IEDC.

#### ***Why it matters***

The bill seeks to penalize companies that move call centers to foreign countries. The IBA monitored the legislation for potential impact to the financial services industry.

#### ***What happened***

The bill did not receive a hearing in the Senate.

## **SB 74 – Workplace Immunization Prohibition**

*Author: Sen. Dennis Kruse, R-Auburn*

### ***Bill summary***

Prohibits an employer from requiring, as a condition of employment, an employee or prospective employee to receive any immunization if the immunization is medically contraindicated for the employee or if receiving the immunization is against the employee's religious beliefs or conscience. Allows for a civil action against an employer for a violation.

### ***Why it matters***

There has been much discussion recently regarding whether businesses can lawfully require their employees to be vaccinated against COVID-19. The IBA monitored this legislation, which received a committee hearing but did not move.

### ***What happened***

The bill was heard in the Senate Committee on Pensions and Labor but did not receive a vote.

## **SB 86 – Corporate and Financial Institutions Tax Rate**

*Author: Sen. Karen Tallian, D-Portage*

### ***Bill summary***

Halts the phased changes to the corporate adjusted gross income tax rate at 5.25%. Halts the phased changes to the financial institutions tax rate at 6%.

### ***Why it matters***

The IBA was strongly opposed to SB 86, as it would halt the continued gradual decrease in the Financial Institutions Tax rate that is on an eventual path to 4.9%.

### ***What happened***

The bill did not receive a hearing in the Senate.

## **SB 184 – Small Loan Finance Charges**

*Author: Sen. Greg Walker, R-Columbus*

### ***Bill summary***

Changes the current incremental finance charge limits that apply to a small loan to a maximum annual rate. Prohibits making, or taking other actions with respect to, a small loan with a greater rate or amount of interest, or other fees and charges, than allowed under the statute governing small loans. Prohibits a credit services organization from providing certain functions with respect to a small loan, and makes a violation a deceptive act.

### ***Why it matters***

SB 184 would place an interest rate cap on small loans (payday loans) of a maximum annual rate of 36%. The IBA monitored this legislation, as it consistently monitors changes to lending products of any type.

### ***What happened***

The bill did not receive a hearing in the Senate.

## **SB 247 – Deceptive Consumer Sales Act**

*Author: Sen. Ron Alting, R-Lafayette*

### ***Bill summary***

Makes the following changes to the Deceptive Consumer Sales Act: (1) with respect to an action brought by an individual consumer under the act, increases: (A) the amount of statutory damages for an uncured or incurable deceptive act from \$500 to \$2,000; and (B) the amount of statutory damages for a willful deceptive act from \$1,000 to \$6,000. (2) In an individual action or a class action under the act, requires the court to award reasonable attorney fees to a prevailing consumer (versus allowing the court to award reasonable attorney fees to the prevailing party in the action under current law). (3) Provides that an individual action or a class action may be brought under the act with respect to transactions involving the lease of real estate, notwithstanding the act's exemption from such suits for consumer transactions in real property. (4) Removes the act's exemption from individual actions or class actions under the act for violations of the federal Fair Debt Collection Practices Act. (5) Amends the provision concerning prerequisites to bringing an individual action or a class action under the act to provide that a consumer's written notice of a deceptive act to the supplier in the consumer transaction: (A) must be given within the earliest of: (i) one year (versus six months under current law) after the initial discovery of the deceptive act; (ii) one year following the transaction; or (iii) any time limit of at least 30 days under any warranty applicable to the transaction; and (B) is sufficient under the act if the written notice is reasonably calculated to provide notice of the general nature of the deceptive act and the resulting damages. (6) Amends the provision concerning the statute of limitations for actions brought under the act to provide that such actions may not be brought more than six years (versus two years under current law) after the occurrence of the deceptive act.

### ***Why it matters***

SB 247 is a significant expansion of the damages and scope of the Indiana Deceptive Consumer Sales Act. The bill increases the damages from \$500 to \$2,000 per violation, and from a limit of \$1,000 to \$6,000 for a "willful" deceptive act. In addition, the bill makes an award of attorney fees against the violator mandatory, as opposed to permissive, by the court and eliminates the requirement that these attorney fees bear any resemblance to the actual work performed by the plaintiff's counsel. The bill also removes real estate leases from the previously exempt category of real estate transactions currently in the code. The IBA had significant concerns about the direction of this bill.

### ***What happened***

The bill did not receive a hearing in the Senate.

## **SB 324 – Credit Card Payments for Charity Gaming**

*Author: Sen. Justin Busch, R-Fort Wayne*

### ***Bill summary***

The bill provides that a qualified organization may accept credit cards for the purchase of: (1) a chance to play any game of chance offered at an allowable activity; or (2) licensed supplies. The bill provides that certain credit card payments: (1) may be made on the internet; and (2) may not exceed \$1,500 in a single transaction.

### ***Why it matters***

The IBA monitored this legislation to ensure it did not have adverse impacts on financial institutions. Specifically, the IBA sought clarity that banks would not have to monitor these transactions to ensure that a charitable organization would not transact a payment over the \$1,500 limit in the bill.

### ***What happened***

The bill passed the Senate, but never received a hearing in the House.

## **HB 1037 – Partition of Heirs’ Property**

*Author: Rep. Sharon Negele, R-Attica*

### ***Bill summary***

This bill provides procedures for the partition of property that is determined by a court to be heirs’ property.

### ***Why it matters***

The bill sets forth procedures for courts when partitioning property that is deemed by the court to be heirs’ property. This legislation is considered uniform law. While the bill was not taken up in committee this year, the IBA anticipates the bill will be filed again. The legislation will need to be reviewed in greater detail to ensure there are no unintended consequences.

### ***What happened***

The bill did not receive a hearing in the House.

## **HB 1038 – Septic System Inspection Before Property Transfer**

*Author: Rep. Mike Aylesworth, R-Hebron*

### ***Bill summary***

This bill has the following provisions: Septic System Inspection: The bill provides that, beginning July 1, 2022, before a fee simple interest in a dwelling connected to a residential onsite sewage system, a non-dwelling structure connected to a commercial onsite sewage system, or a lot or tract of land containing a water well in addition to a residential or commercial onsite sewage system may be transferred: (1) the residential or commercial onsite sewage system must be inspected by a qualified inspector and (if applicable) water from the water well must be tested by a qualified tester; (2) a document certifying that the inspection or testing has been conducted and setting forth the results of the inspection or testing must be provided to the local health department, the county recorder and the person to whom the fee simple interest is being transferred; and (3) any cause of failure of the residential or commercial

onsite sewage system must be eliminated before the county recorder may record a deed transferring a fee simple interest in the property.

**Civil Action:** The bill provides exceptions. It also provides that the failure of the owner of the dwelling, non-dwelling structure, or lot or tract of land on which a water well is located to provide the document to the transferee or prospective transferee: (1) is a complete defense to an action brought by the owner against the prospective transferee for breach of a contract to purchase the property; and (2) is a breach of a legal duty owed to the transferee for which the transferee may bring a civil action against the owner for compensatory damages.

**Owner:** It provides that if an inspection indicates that a dwelling's residential onsite sewage system exhibits any conditions constituting failure, or the testing of water from the water well indicates a reportable presence of arsenic, nitrate, lead or coliform bacteria: (1) the owner of the dwelling shall state the results of the inspection or testing in the disclosure form that the owner is required to prepare before an offer for the sale of the dwelling is accepted; and (2) the failure of the seller to state this information in the disclosure form makes the sale of the dwelling voidable at the election of the buyer, even after the closing.

**Indiana State Department of Health:** The bill also requires the Indiana State Department of Health to adopt rules establishing: (1) requirements and standards for inspections and testing; (2) qualifications for inspectors and testers; and (3) requirements and standards for the training and certification of inspectors and testers.

### ***Why it matters***

The bill provides that before a residential or commercial property is transferred, it must be inspected by a qualified inspector for failure. If any indications of failure would be identified, the residential or commercial onsite sewage system failure must be addressed before the county recorder may record a deed transferring a fee simple interest in the property. The bill would create new challenges to the transfer of real estate. The IBA monitored the legislation.

### ***What happened***

The bill did not receive a hearing in the House.

## **HB 1180 – Public Retirement Fund Investments**

*Author: Rep. Alan Morrison, R-Brazil*

### ***Bill summary***

The bill requires the Indiana Public Retirement System (INPRS) to divest from businesses that engage in action or inaction to penalize, inflict economic harm on, or otherwise limit commercial activity with companies invested in or assisting in the production of or manufacturing of certain carbon based or nuclear products. The bill provides for notice to businesses, reinvestment, and civil immunity. It requires certain reports to the Legislative Council. It also makes a conforming amendment.

### ***Why it matters***

The bill would have restricted the INPRS from investments in businesses or investment products viewed as harmful to coal and other fossil fuels. While not directly impacting financial institutions, the bill could create problems for institutions providing investment to INPRS. The IBA monitors all legislation that attempts to restrict or prohibit the investment of public funds in the event the bill could evolve or change to be more problematic. The IBA monitored the bill closely.

### ***What happened***

The bill was heard in the House Committee on Employment, Labor and Pensions but did not receive a vote.

## **HB 1260 – Gift Certificates and Store Gift Cards**

*Author: Rep. Tony Cook, R-Cicero*

### ***Bill summary***

This bill provides that a person shall not sell or issue to an Indiana consumer any gift certificate or store gift card with an expiration date, unless certain conditions are met. It provides that if at any time after the gift certificate or store gift card is issued or sold: (1) the merchant for which the gift certificate or store gift card was originally sold or issued: (A) for any reason ceases to do business in Indiana; or (B) for any reason: (i) substantially changes; or (ii) ceases to offer; the types of goods or services that were offered to consumers at the time the gift certificate or store gift card was originally sold or issued; and (2) any expiration date: (A) authorized under the bill's provisions; and (B) applicable to the gift certificate or store gift card (or to the underlying funds associated with either) has not elapsed; the merchant for which the gift certificate or store gift card was originally sold or issued shall, upon the request of an Indiana consumer who is the rightful holder of the gift certificate or store gift card, promptly refund to the holder the balance of the underlying funds or provide the holder with the remaining balance in some other manner. The bill provides that a person who violates the bill's provisions: (1) commits a deceptive act that is actionable by an aggrieved consumer and the attorney general under the Deceptive Consumer Sales Act; and (2) is subject to the penalties and remedies set forth in the Deceptive Consumer Sales Act.

### ***Why it matters***

The bill provided that a person shall not sell or issue to an Indiana consumer any gift certificate or store gift card with an expiration date unless certain conditions are met. The bill also required the merchant to provide a refund for the value of the gift card under certain conditions if the merchant closed or changed operations. While not impacted, the IBA is monitored this bill for any changes that could have included bank-issued gift cards.

### ***What happened***

The bill passed the House, but never received a hearing in the Senate.

## **HB 1345 – Minimum Wage**

*Author: Rep. Pat Boy, D-Michigan City*

**Bill summary**

The bill increases the minimum wage paid to certain employees in Indiana as follows: (1) after June 30, 2022, from \$7.25 an hour to \$8.20 an hour, (2) after Dec. 31, 2022, from \$8.20 an hour to \$9.15 an hour, (3) after Dec. 31, 2023, from \$9.15 an hour to \$10.10 an hour, (4) after Dec. 31, 2024, from \$10.10 an hour to \$11.00 an hour. The bill also provides that after Dec. 31, 2024, and each subsequent Dec 31, the hourly minimum wage increases at the same percentage as any increase in the Consumer Price Index for the preceding calendar year. The bill increases the cash wage paid to tipped employees as follows: (1) after June 30, 2022, from \$2.13 an hour to \$3.00 an hour, (2) after Dec. 31, 2022, from \$3.00 an hour to \$4.28 an hour, (3) after Dec. 31, 2023, from \$4.28 an hour to \$5.56 an hour, (4) after Dec. 31, 2024, from \$5.56 an hour to \$6.85 an hour. It provides that after Dec. 31, 2025, and continuing for each subsequent Dec. 31, the cash wage required to be paid to employees is equal to 70% of the hourly minimum wage. The bill also provides that, if the federal minimum wage or cash wage is higher than the state minimum wage or cash wage, employers are required to pay the higher federal rate.

**Why it matters**

The bill increased the minimum wage paid to certain employees in Indiana to \$11.00 an hour. The bill would have stair stepped the increase up over three years. While this issue falls under general employment, the IBA was monitoring the bill due to its impact on members.

**What happened**

The bill did not receive a hearing in the House.

**HB 1387 – Prohibited Expenditures and Investments**

*Author: Rep. Chris Judy, R-Avilla*

**Bill summary**

This bill prohibits the use of public funds to subsidize or otherwise incentivize direct flights from international and regional airports in Indiana to or from China. The bill prohibits the Indiana Public Retirement System from investing in Chinese companies or companies in which China has a direct or indirect economic interest or a resident of China on the board of directors. It prohibits the Indiana Economic Development Corporation from maintaining a foreign office in China.

**Why it matters**

The IBA monitored the bill to ensure the scope of prohibition of investments was not expanded into other areas that could create problems for financial institutions. In general, the IBA has concerns about bills that restrict or limit certain investments, and how those restrictions or limitations would negatively impact financial institutions.

**What happened**

The bill passed out of the House Committee on Government and Regulatory Reform and then was reassigned to the House Ways and Means Committee. The bill did not progress from there.

## **HB 1411 – Consumer Loan Finance Charges**

*Author: Rep. Jeff Ellington, R-Bloomington*

### ***Bill summary***

This bill makes the following changes to the Uniform Consumer Credit Code: (1) provides that for a consumer loan, a lender may contract for a loan finance charge not exceeding 36% per year, in the case of a loan agreement entered into after June 30, 2021 (versus a loan finance charge not exceeding 25% in the case of a loan agreement entered into before July 1, 2021, and in the case of any consumer loan under current law); (2) amends the definition of “supervised loan” to provide that the term applies only to specified consumer loans for which a loan agreement is entered into before July 1, 2021; (3) amends the provisions concerning the permitted loan finance charge for supervised loans to provide that the provisions apply only to a loan agreement (or to an agreement for the refinancing or consolidation of a loan) that is entered before July 1, 2021; (4) specifies that if a supervised loan entered into by a lender and a debtor before July 1, 2021, is paid in full by a new loan from the same lender after June 30, 2021, the new loan is not considered a supervised loan and is subject to provisions on the permitted loan finance charge for consumer loans. The bill also makes conforming changes to provisions in the Indiana Code that reference the permitted finance charge for supervised loans.

### ***Why it matters***

Provides that for a consumer loan, a lender may contract for a loan finance charge not exceeding 36% per year, in the case of a loan agreement entered into after June 30, 2021 (versus a loan finance charge not exceeding 25%, in the case of a loan agreement entered into before July 1, 2021, and in the case of any consumer loan under current law). The IBA was neutral on the bill.

### ***What happened***

The bill did not receive a hearing in the House.

## **HB 1423 – Microenterprises**

*Author: Rep. Ben Smaltz, R-Garrett*

### ***Bill summary***

This bill establishes the Microenterprise Fund, which shall be administered by the Indiana Economic Development Corporation. It provides that the IEDC may provide a microloan to a business that qualifies as a microenterprise. It also provides that the IEDC may enter into contracts necessary for the administration of the Microenterprise Fund. The bill makes an allocation to the program.

### ***Why it matters***

This bill was to establish the Microenterprise Fund, to be administered by the IEDC. It provided that the IEDC may provide a microloan to a business that qualifies as a microenterprise. The bill made an appropriation to start the loan fund. The IBA weighs the economic impact of state money with the competitive nature of state-created lending and/or funding programs. The IBA had concerns about the way this program was structured.

### ***What happened***

The bill did not receive a hearing in the House.

## **HB 1493 – Payment Card Network Interchange Fees**

*Author: Rep. Steve Bartels, R-Eckerty*

### ***Bill summary***

This bill provides that the amount of certain taxes (covered taxes) that are: (1) calculated as a percentage of the gross retail income received by a merchant or seller in an electronic payment transaction; and (2) listed separately on the payment invoice or other demand for payment; must be excluded from the amount upon which any interchange fee is charged by a payment card network for the electronic payment transaction. The bill defines an “interchange fee” as a fee established, charged or received by a payment card network to compensate an issuer of a debit card or credit card for the issuer’s involvement in an electronic payment transaction. The bill requires a payment card network to do one of the following: (1) at the time of settlement of an electronic payment transaction, deduct from the calculation of any interchange fees the amount of any covered taxes that are specific to that form or type of electronic payment transaction; (2) rebate an amount of the interchange fee in an amount proportionate to the amount of the interchange fee attributable to all covered taxes imposed in the electronic payment transaction.

The bill provides that the required deduction or rebate must occur at the time of settlement when the merchant or seller, as part of the transaction finalization, is able to capture and transmit tax and fee amounts relevant to the sale at the time of sale. It provides an exception allowing a payment card network to credit a merchant’s or seller’s settlement account for interchange fees collected on amounts that included covered taxes, in cases in which a merchant or seller is not able to capture and transmit tax or fee amounts relevant to the sale at the time of sale.

This bill provides that a payment card network that violates these provisions: (1) is liable for a civil penalty in an amount not to exceed \$1,000 per violation, payable to a person aggrieved by the violation; and (2) shall refund to each affected merchant or seller the amount of excess interchange fees collected.

### ***Why it matters***

The bill would prohibit a payment processor from including the applicable tax rate in the calculation of network interchange fees. This bill is extremely problematic for the financial services industry. The interchange fee is calculated and charged to pay for the costs to administer the transaction, maintain the infrastructure, and offset costs incurred by card issuers for fraudulent transactions. The IBA was strongly opposed to the bill.

### ***What happened***

The bill was withdrawn by the bill author.

## **IBA Government Relations Team**

8425 Woodfield Crossing Blvd., Ste. 155E

Indianapolis, IN 46240-7321

Phone: 317-387-9380

Amber R. Van Til, President and CEO – [avantil@indiana.bank](mailto:avantil@indiana.bank)

Dax Denton, Senior Vice President – [ddenton@indiana.bank](mailto:ddenton@indiana.bank)

Eric Augustus, Vice President – [eaugustus@indiana.bank](mailto:eaugustus@indiana.bank)

Lizzie Ketzenberger, Executive & Government Relations Coordinator – [lketzenberger@indiana.bank](mailto:lketzenberger@indiana.bank)