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Financial Industry Group

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Client Alert

## 2011 Virginia Legislation of Interest to Financial Institutions

This is a brief summary of significant bills enacted in the 2011 Virginia General Assembly Session affecting financial institutions. Unless otherwise noted, each bill will become effective July 1, 2011.

H.B. 1682	Subordinate Mortgages – This bill increases the amount of a subordinate mortgage that will retain its subordinate status upon a refinancing of the primary mortgage, when certain conditions are met, from \$50,000 to \$150,000. Under the current statute, a subordinate loan automatically retains its subordinate status if: (i) the refinance deed of trust has a disclosure on the first page in bold or capitalized letters stating that it is a refinance mortgage; (ii) the principal amount secured by the refinance mortgage does not exceed the outstanding principal balance of the prior mortgage plus \$5,000; and (iii) the interest rate is stated in the refinance deed of trust at the time it is recorded, and does not exceed the interest rate set forth in the prior mortgage.
H.B. 1590 and S.B. 774	Jurisdictional Limit of General District Courts – These bills increase the maximum jurisdictional limit of general district courts from \$15,000 to \$25,000.
H.B. 1992	Bank Stock Option Plans – This bill provides that no stock option granted under a state bank's stock option plan shall be less than 100 percent of the fair market value per share of the stock. Current law provides that such stock option shall not be less than 100 percent of the book value per share of the stock. The bill also clarifies the authority of state banks to offer restricted stock award plans.
H.B. 1826	Loan Servicing; Virginia Housing Development Authority – This bill authorizes the Virginia Housing Development Authority to service mortgage loans made by banks and other mortgage lenders.
S.B. 786	Mortgage Loan Originator – This bill provides that "mortgage loan originator," for purposes of licensing and certain other requirements, does not include any individual who is employed by an approved housing counseling organization and merely seeks to assist distressed borrowers in default without otherwise engaging in any activities for which a license would be required.
	National Bank Fiduciary Authority – This bill clarifies that a national bank with or without an office in Virginia may act as a

H.B. 2366	fiduciary in the Commonwealth pursuant to federal law. The bill codifies an Attorney General Opinion providing that a statutory provision barring out-of-state trust institutions without an office in Virginia from acting as fiduciary in the Commonwealth is preempted.
H.B. 2099	Affiliated Business Disclosure; Settlement Service Business – This bill provides that a person making an affiliated business disclosure must disclose the person's percentage ownership, if greater than 1%, in the affiliated service provider to which it refers settlement service business. If the person making the referral owns more than 50% of the affiliated service provider, the disclosure must state that such service provider is a subsidiary of the person making the referral.
H.B. 2318 and S.B. 827	Electronic Notarizations – These bills authorize a notary to electronically notarize a document when the signer is not in the notary's presence if satisfactory evidence of the identity is established. "Satisfactory evidence of identity" may be based on video and audio conference technology that permits the notary to communicate with and identify the principal at the time of the notarial act, provided that such identification is confirmed by (i) personal knowledge; (ii) an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority; or (iii) a valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification card that meets certain specifications. The provisions described above relating to the use of video and audio conference technology shall become effective July 1, 2012.
H.B. 1422	Homestead Exemption – This bill adds a firearm not to exceed \$3,000 in value to the list of items that every householder shall be entitled to hold exempt from creditor process. The bill also increases the value of the motor vehicle exemption from \$2,000 to \$6,000.
S.B. 1367	Motor Vehicle Title Lending – This bill removes the restriction on motor vehicles registered in another state. Such lenders may make title loans to nonresidents provided that the security interest is added to the certificate of title in compliance with the law of the nonresident's state.

If you have questions about any of these bills or any other bills considered during the 2011 Virginia General Assembly Session, please contact Jay Spruill at 804 344 3420 or [jspruill@reedsmith.com](mailto:jspruill@reedsmith.com). Jay recently joined Reed Smith, having previously served for more than 15 years as general counsel for the Virginia Bankers Association. Jay has considerable experience providing counsel on matters concerning the banking industry in Virginia.

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