

2019 Session in Summary

This was and will be considered a notable year for the banking industry, because of the effort it took to successfully modernize the tax system on the banking industry. Because of the importance of and the efforts used to pass the necessary legislation for the tax reformation, there was not many other bills introduced or passed which impacted our industry. That doesn't mean there were not many bills introduced. More than 1200 bills and resolutions were drafted and 201 bills passed.

Bills that impact the banking industry are summarized below. Each bill, unless it contains an emergency clause will go into effect 90 days from the end of session. If you need more information on any of these bills, please contact Debra Stamper at dstamper@kybanks.com.

1. **SB7 – Employment Disputes.** Allows Employers to require arbitration, mediation or other alternative dispute resolution as a condition to employment.
2. **SB18 – Reasonable Accommodation for Pregnancy and Childbirth.** Requires reasonable pregnancy and childbirth related accommodation for employers with 15 or more employees. The reasonable accommodations must be made to address the “employee’s own limitations” and the nature of the accommodations “may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk.” Of course, these requirements are weighed against the undue hardship that can be demonstrated by the employer. Notices must now include the right to be free from discrimination in relation to pregnancy and childbirth in employee accessible business areas.
3. **SB114 - Electronic and Remote Notary.** Becomes effective January 1, 2020.

Electronic and remote notaries are two distinct concepts. Electronic notaries are simply a notarial act performed via a computer rather than wet signatures. Without the remote portion of the bill, electronic notaries would only be allowed when the notary and the person whose signature is being notarized are in the same room. The remote notary portion of the bill is the concept that allows for the convenience factor of notarizing a signature and closing a transaction without the need to have everyone in the same location.

In either instance, this bill provides that the use of a remote or electronic notary is totally voluntary. All parties to a notarized document must agree before electronic and/or remote notary may be used in place of an in-person wet notary.

In addition, the bill allows for each county clerk to make the decision as to whether their office will accept filings of real estate, deeds, mortgages and other documents electronically. If a clerk will not accept electronic filings and a document has been notarized electronically/remotely, the bill provides for a simple process of converting the

notarized document to a hard copy form, which must be accepted by the county clerk for filing.

The Secretary of State's office will promulgate regulations to specify the requirements of these processes.

Notaries may obtain an electronic seal and perform any notarial act authorized by law on a paper or electronic record from any geographical location that is related to the United States. The notary must establish the identity of the individual from the same documents and information as they currently do. In the case of a remote notary, that information will be confirmed remotely in accordance with regulation. The electronic document must be rendered tampered proof, as determined by regulation.

Notaries using an electronic seal must maintain a detailed journal (which is typically an automatic function through the software used) of online notarial acts for ten (10) years from the date of performance of the last entry in the journal. Notary must retain an audio-visual recording of the performance of the electronic notarial act, if completed remotely. (Again, this is typically completed through the software used.)

The bill has a few other highlights including:

- Notaries may not notarize the signature of a family member.
- Notaries may not notarize a document for a transaction in which the notary has a beneficial interest;
- Notaries may allow, for individuals physically unable to sign, another individual to sign for them by appointing an individual in front of two witnesses (one can be the signor).

The bill essentially contemplates at least these types of notaries: (1) paper notarizations; (2) notarizations involving electronic records in which the signer appears physically before the notary; and (3) notarizations involving electronic records for a remotely located individual.

This bill also amends the Uniform Electronic Transfers Act (UETA) to allow the use of e-signatures for transactions involving deeds and other instruments that convey interests in real property. However, it is important to note that bill does not change the requirements of original signatures for wills, promissory notes and other types of non-exempt instruments.

4. SB150 – **Concealed Carry.** A concealed carry license is no longer needed in order to carry a concealed firearm for persons 21 and older, if carried in accordance with other state and federal law. Banks and other businesses may still prohibit the carrying of concealed weapons into the bank, by board resolution. KRS 237.110 The KBA has door clings available.
5. HB139 – **Kentucky Financial Empowerment Commission.** This Commission is to be created for the purpose of developing a plan toward increasing financial empowerment of all Kentuckians, but focusing on specific groups (such as those retired, K-12 students, veterans, those impoverished etc.) The Board of the Commission will include one member

to be a representative of the KBA. The Commission will meet quarterly. A Director shall be hired to operate in accordance with the directives of the Board.

6. HB197 - **Industrial Hemp.** The statutory definition of industrial hemp has been modified to match the federal definition.
7. HB258 – **Scooters.** The definitions of “vehicle” and “motorcycle” have been changed to exclude scooter. Electric low-speed scooters (designed for maximum 20 mph) are exempt from registration. Other scooters (designed for maximum 50 mph) must be registered and rider must be licensed.
8. HB354/458 – **Bank Taxation.** See summary previously circulated to KBA members. As a note, however, please be aware that banks will now have the opportunity to take advantage (if you choose) of some tax credits which had previously be limited to non-bank corporations.