



September 18, 2020

The Second Session of the 150th Delaware General Assembly, adjourned to the call of the Chair early in the morning of July 1st, 2020. It was an historic session since most of its work was done virtually rather than in person. All bills that were left in Committees or not acted upon are dead.

The DBA monitored and followed bills this past session to promote and protect the industry's interests. Several bills directly impacted our industry and included trust related bills to maintain Delaware's preeminence in the field, clarifications regarding opening safe deposit boxes and purchase money mortgages. We also were involved in several bills implementing the Governor's Emergency Order regarding the Coronavirus Pandemic to statutorily provide for time-limited implementation of remote notarization, mortgage foreclosure relief and protection of tenants from summary actions by landlords. The DBA also tracked and monitored a number of bills that affected the business community including, updates to Delaware corporation and alternative entity laws.

I want to thank our Government Affairs Committee and the many government relations specialists in our banks for their assistance.

Please note that any bill that passes both houses of the Legislature will be sent to the Governor for approval or veto. The Governor's staff will review each bill and it may take 30 to 60 days to arrive at his desk. He then has 10 days to address the bill. This means that some bills passed at the end of June may take 70 days to be addressed. In an effort to get this report to you in a timely manner, the final status of some bills may be incomplete. Please check with the DBA if you have any questions regarding a bill's final status.

On the following pages you will find the bills deliberated in the Second Session. The full text of each bill may be found at:

<https://legis.delaware.gov/AllLegislation>.

If you have any questions regarding legislation, please call the DBA Office at 302-678-8600 or me at 302-272-0800

Thomas P. Collins
EVP, Government Relations
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Note: The bills listed below are bank and trust oriented:

Bill # & Sponsor	Description	Status	DBA Position	Synopsis/Commentary
HB 303 Brady	AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYMENT PRACTICES.	Stricken by sponsor	Opposed	<p>This Act establishes employment practices for call centers, including:</p> <ul style="list-style-type: none"> • Requiring that a call center immediately notify the Secretary of the Department of Labor (“Secretary”) if staffing levels fall below 70% of customer volume of communications, based on the call center’s previous 6-month average volume. • Requiring that a call center notify the Secretary at least 90 days prior to relocating the call center or transferring 1 or more facilities or operating units comprising of at least 20% of a call center’s total operating volume of communications as measured against the previous 12-month average volume of the operation. • Establishing a civil penalty of up to \$7,500 per day for each day an employer violates notification requirements. • Requiring the Secretary to compile and maintain a list of employers who provide notification required by this Act. Prohibiting an employer that is added to the list from receiving a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support for 36 months after being added to the list. Grants for specified training programs or other employment assistance are exempted. • Requiring an employer that has been added to the list to remit to the appropriate governmental entity the unamortized value of a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support that the State governmental entity provided to the employer. Grants for specified training programs or other employment assistance are exempted. • Providing that when a State department or agency makes or awards a contract for call center service, the department or agency shall grant preference to qualified businesses. “Qualified business” is defined as a business that is located in and employs residents of this State. This Act applies to the relocation of a call center or transfer of a facility or operating unit of a call center that occurs after the effective date of this Act. This Act takes effect on the first day of the month 6 months after the date of enactment.
HB 320 Brady	AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE CONCERNING PAYMENTS BY CONSUMERS.	House Economic Development/ Banking/ Insurance & Commerce Committee (Dead)	Opposed	<p>This Act prohibits the seller of consumer goods or services from refusing to accept cash payment, except in limited circumstances. It creates graduated civil penalties for violations and provides consumers a private right of action to recover double damages, including consequential damages, for a second violation of the law and triple damages for subsequent violations. The Division of Consumer Protection has authority to enforce the law.</p>

<p>HB 334 Bush</p>	<p>AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO DECEDENTS' ESTATES AND FIDUCIARY RELATIONS.</p>	<p>Signed by Governor Carney on 8/6/20</p>	<p>Supported</p>	<p>This extensive bill amends various sections of the Delaware Code relating to decedents' estates and fiduciary relations to keep Delaware trust law current and to maintain national preeminence. Specifically: Section 1 of the Act addresses statutes under Chapter 33 of Title 12 and (i) amends section 3330 by adding subsections (c) and (d)—to make explicit in subsection (a) of section 3330 the applicability dates that were intended to be carried over from the applicability dates of the pre-2018 version of section 213 of Title 12 when, in 2018, section 213 was re-codified as subsection (a) of section 3330, and to provide a corresponding clarification of the applicability dates of subsection (b) of section 3330; (ii) amends section 3338 to specify that, consistent with the Uniform Trust Code, when a trustor is a party to a nonjudicial settlement agreement, then unless the transfer in trust is an incomplete gift for federal gift tax purposes, the trustor may not represent and bind any beneficiary other than the trustor, and—if the nonjudicial settlement agreement alters any beneficial interest in the trust—all of the trust's beneficiaries must be parties to the agreement; (iii) amends section 3342 to parallel the changes to section 3338 under this Act—that is, to specify that, consistent with the Uniform Trust Code, unless the transfer in trust is an incomplete gift for federal gift tax purposes, a trustor, a guardian of a trustor, or an agent of a trustor under a power of attorney may not represent and bind any beneficiary other than the trustor with respect to a modification under section 3342, and to make it more clear that all of the trust's beneficiaries must be parties to the modification; and (iv) amends the provisions of section 3343, to make subsection (a) more clear, to make section 3343's provisions with respect to section 3313A more clear, to add within new subsection (c)(2) of section 3343 a provision allowing a trustee now excluded from exercising certain powers to be released with respect to the past exercise of such powers as though such trustee were being removed, and by adding a provision to section 3343 that an existing trustee is entitled to 30 days' notice before changes under section 3343 become effective with respect to the existing trustee's duties, unless the existing trustee waives the notice period. Section 2 of the Act addresses statutes under Chapter 35 of Title 12 and (i) removes a superfluous word in section 3528; and (ii) amends subsection (a)(2) of section 3585 to make it clear that the report procedure described in that subsection may be used while the trustee is in the process of resigning (and not just after completion of the act of resignation or the effective date of a resignation)—but also conditions the use of the procedure upon the resigning or resigned trustee's transferring assets to the appropriate successor in interest within a reasonable period of time after expiration of the period within which interested parties may file an action against the trustee under subsection (a)(2), and further provides in subsection (e) that certain actions are not barred against a trustee for administration of assets after the expiration of periods under section 3585. Section 3 of the Act amends Chapter 47 of Title 12 (the Uniform Prudent Management of Institutional Funds Act) to make it clear within section 4703 that sustainable investment strategies aligning with the charitable purposes of the institution are authorized in managing the institution's funds (thereby corresponding to recent similar amendments to sections 3302 and 3303 of Title 12). Section 4 of the Act provides effective dates.</p>
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<p>HB 335 Bush</p>	<p>AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO RESTRICTED ACCESS TO SAFE DEPOSIT BOXES FOR RETRIEVAL OF DECEDENT'S LAST WILL AND DECLARATION OF LAST REMAINS.</p>	<p>Passed awaiting Governor's Action</p>	<p>Supported</p>	<p>This Act amends Delaware's probate code by adding a new section to provide restricted access to a decedent's safe deposit box located in a financial institution and held in the decedent's sole name, for the limited purpose of retrieving the decedent's last will and declaration of last remains.</p>
<p>SB 220 McBride</p>	<p>AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO DISCRIMINATION AGAINST CASH PAYMENTS BY CONSUMERS.</p>	<p>In Senate Banking, Business & Insurance Committee (Dead)</p>	<p>Neutral</p>	<p>This Act prohibits a seller from refusing to accept cash from a consumer making an in-person purchase of a good or service.</p>
<p>SB 244 Paradec</p>	<p>AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION, AND DISSOLUTION OF STATUTORY TRUSTS.</p>	<p>Signed by Governor Carney on 7/23/20</p>	<p>Supported</p>	<p>This extensive bill continues the practice of amending periodically the Delaware Statutory Trust Act to keep it current and to maintain its national preeminence.</p>

SB 245 Paradee	AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MORTGAGES.	Passed and awaiting action by the Governor	Supported	This Act amends the Real Estate Code to modernize the definition of purchase money mortgage under Delaware law to include lenders other than the seller of the mortgaged property who provide financing to purchase the property. Additionally, this Act extends the time period to record a purchase money mortgage from 5 days to 10 days and explicitly subordinates a mechanic's lien under Chapter 27 of Title 25 to a purchase money mortgage. Finally, this Act makes technical corrections to conform existing language to the standards of the Delaware Legislative Drafting Manual. Specifically, the existing language of § 2108 of Title 25 is redrafted in § 2018(c) and (d) in this Act.
<i>Note: The Following Are Business Related</i>				
HB 341 Lynn	AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.	Signed by Governor Carney on 7/16/20	Supported	This extensive bill amends various sections of the Delaware Code relating to general corporation law to keep Delaware corporate law current and to maintain national preeminence.
HB 342 Lynn	AN ACT TO AMEND CHAPTER 15, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS.	Signed by Governor Carney on 7/16/20	Supported	This bill continues the practice of amending periodically the Delaware Revised Uniform Partnership Act to keep it current and to maintain its national preeminence.

<p>HB 343 Lynn</p>	<p>AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.</p>	<p>Signed by Governor Carney on 7/16/20</p>	<p>Supported</p>	<p>This bill continues the practice of amending periodically the Delaware Revised Uniform Limited Partnership Act to keep it current and to maintain its national preeminence.</p>
<p>HB 344 Lynn</p>	<p>AN ACT TO AMEND CHAPTER 18, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED LIABILITY COMPANIES AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY COMPANIES.</p>	<p>Signed by Governor Carney on 7/16/20</p>	<p>Supported</p>	<p>This bill continues the practice of amending periodically the Delaware Limited Liability Company Act to keep it current and to maintain its national preeminence.</p>

<p>HB 346 w/HA 5</p> <p>Longhurst</p>	<p>AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO VOTING BY MAIL FOR THE 2020 NON-PRESIDENTIAL PRIMARY, GENERAL, AND SPECIAL ELECTIONS.</p>	<p>Signed by Governor Carney on 7/1/20</p>	<p>Supported</p>	<p>This Act provides for voting by mail for the 2020 primary and general elections and special elections held under the provisions of Chapter 73 of Title 15 due to the emergency caused by COVID-19, a highly contagious virus. Voting by mail is an alternative to, and not a replacement for, in-person voting, which remains an available option to those electors not voting by absentee or mail ballot. This Act establishes procedures for voting by mail which mirror the procedures for absentee voting. The Act makes clear that, like in absentee voting, no ballots can be tabulated until Election Day. The authority to implement voting by mail stems from the Delaware Constitution. Article XVII of the Delaware Constitution mandates that in order to insure continuity of State and local governmental operations in periods of an emergency resulting from disease, the General Assembly shall have the power and immediate duty to adopt measures that may be necessary and proper for insuring the continuity of governmental operations including nonconformity with the requirements of the Constitution when in the judgment of the General Assembly to do so would be impracticable. With this Act, the General Assembly finds that due to the highly contagious nature of COVID-19, and the need to protect Delaware voters and polling workers from the virus, voting by mail is necessary and proper for insuring the continuity of governmental operations, and conformity with the constraints of Article V, § 4A would be impracticable.</p>
<p>SB 215</p> <p>Lawson</p>	<p>AN ACT TO AMEND THE DELAWARE CODE RELATING TO CRIMINAL VIOLENCE RISK ASSESSMENT.</p>	<p>In Senate Judicial Committee (Dead)</p>	<p>Neutral</p>	<p>On November 3, 2015, the United States Centers for Disease Control and Prevention (CDC) published a report titled "Elevated Rates of Urban Firearm Violence and Opportunities for Prevention – Wilmington, Delaware" in which the CDC made 2 major recommendations: (1) the creation and adoption of a robust risk assessment tool and (2) an integrated, statewide data collection system. To date, no meaningful action has been taken at any level to implement the CDC's recommendations. This Act adopts the CDC's recommendations and directs the pertinent State agencies to implement these recommendations.</p>
<p>SB 247</p> <p>Hansen</p>	<p>AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO PUBLIC PROTECTIONS DURING THE COVID-19 STATE OF EMERGENCY AND NOTARIZATION.</p>	<p>Signed by Governor Carney on 7/16/20</p>	<p>Supported</p>	<p>This Act ensures that the protections put in place during the COVID-19 pandemic related to notarizations do not cease immediately upon the lifting of the COVID-19 State of Emergency, but instead continue until June 30, 2021. The Act authorizes remote notarization and witnessing by Delaware attorneys via audio-visual technology and sets forth conditions under which they can be performed. The Delaware Governmental Offices' requirement for a wet signature is waived. The Recorder of Deeds is required to accept documents notarized and witnessed under specified procedures in the Eleventh Modification. This Act ensures that the General Assembly will have another opportunity to express its will on continuing this protection by including an internal sunset date.</p>

<p>SB 254 Lockman</p>	<p>AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO RESIDENTIAL MORTGAGE FORECLOSURES DURING THE COVID-19 RECOVERY PERIOD.</p>	<p>Laid on table during consideration (Dead)</p>	<p>Neutral</p>	<p>This Act ensures that the consumer protections for Delawareans related to residential mortgage foreclosure put in place during the COVID-19 state of emergency do not cease immediately upon the lifting of the COVID-19 state of emergency, but instead continue for a short period of time during the COVID-19 recovery period. The COVID-19 recovery period runs until the sixty-first day following the termination of the COVID-19 state of emergency. This Act is intended to set the ceiling for what restrictions may be placed on residential mortgage foreclosures during the COVID-19 recovery period. This Act is written to give the Governor flexibility to carry out the legislative will of protecting Delawareans while not regulating property more than necessary given the market needs and conditions. If additional executive orders are issued to further ratchet down or slowly ease the transition back to normal operations, those are the protections that will be in effect during the COVID-19 recovery period. This Act sunsets on the sixty-first day following the termination of the COVID-19 state of emergency.</p>
<p>SB 255 McDowell</p>	<p>AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY DURING THE COVID-19 RECOVERY PERIOD.</p>	<p>Laid on table during consideration (Dead)</p>	<p>Neutral</p>	<p>This Act ensures that the consumer protections for Delawareans related to summary possession and tenants holding over in rental units put in place during the COVID-19 state of emergency do not cease immediately on the lifting of the COVID-19 state of emergency, but instead continue for a short period of time during the COVID-19 recovery period. The COVID-19 recovery period runs until the sixty-first day following the termination of the COVID-19 state of emergency. This Act is intended to set the ceiling for what restrictions may be placed on summary possession and tenants holding over in rental units during the COVID-19 recovery period. This Act is written to give the Governor flexibility to carry out the legislative will of protecting Delawareans while not regulating property more than necessary given the market needs and conditions. If additional executive orders are issued to further ratchet down or slowly ease the transition back to normal operations, those are the protections that will be in effect during the COVID-19 recovery period. This Act sunsets on the sixty-first day following the termination of the COVID-19 state of emergency.</p>
<p>SB 242</p>	<p>A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2021</p>	<p>Signed by Governor Carney on 6/30/20</p>	<p>Supported</p>	<p>This Bill is the Fiscal Year 2021 Bond and Capital Improvements Act</p>

<p>SB 260 McDowell</p>	<p>AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 2021; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AMENDING THE FISCAL YEAR 2021 APPROPRIATIONS ACT; AND AMENDING CERTAIN STATUTORY PROVISIONS.</p>	<p>Signed by Governor Carney 6/30/20</p>	<p>Supported</p>	<p>This Act provides supplementary appropriations to certain Grants-in-Aid for Fiscal Year 2021. Section 1 - Government Units and Senior Center \$ 26,692,375 Section 2 - One-Times and Community Agencies \$ 20,467,399 Section 3 - Fire Companies \$ 6,940,706 Section 4 - Veterans Organizations \$ 354,318 GRAND TOTAL \$ 54,454,798</p>
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