



**Delaware Bankers Association
Delaware Financial Education Alliance**



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To: DBA and DFEA Members
From: Karyn S.W. Polak
President, CEO, and Treasurer
Date: February 25, 2026
Subject: Legislative Update

Our purpose at the DBA/DFEA is to support you so that you are positioned to excel for your clients, employees, communities, and ultimately our neighbors in the State of Delaware and beyond. Advocating for our members is a key strategic priority for us, and sharing this month's Legislative Update is one way in which we execute on that priority. Please reach out and share with us your perspectives on the issues mentioned here. *Which are the key issues for you and your institution? Are there areas of legislative and regulatory activity not mentioned here that we ought to have on our radar screen? What information would be most useful to you?*

Note that there are always developments that occur right after we finalize this report, which we've not attempted to include here.

Thank you for your membership!

State Legislative Issues

The Delaware legislature went into recess on Thursday, January 29th.

The Joint Finance Committee kicked off hearings Tuesday, February 3rd to finalize a draft of the 2027 Delaware state budget. The fiscal 2027 year will commence on July 1, 2026. The hearings are scheduled to end on Thursday, March 5th, and a budget is expected to be approved in the House and Senate by June 30th. Of note in the hearings was the testimony from the State Department regarding the modernization of Title V of the Delaware Banking code. This is of importance because it elevates the modernization of banking regulatory oversight as a strategic priority.

A couple of interesting topics, unrelated to banking, being considered include HB65, which would move Delaware's primary elections to the 4th Tuesday in April – a substantial change from the second

Tuesday of September. Additionally, the legislature is likely going to move forward with a long overdue expansion of Legislative Hall, including a \$100M addition to the east side of Legislative Hall and a \$30M parking garage designed to enhance security for the legislators.

While the legislature is in recess, a number of issues continue to be actively worked in anticipation of the legislature reconvening on Tuesday, March 10th.

Modernization of Banking Regulatory Oversight. Senator Mantzavinos shared that drafting is underway to modernize Title V of the Delaware Banking Code. We will be attending a progress update meeting on this topic on Friday, February 27 in Dover.

New Legislation. Several draft bills continue to be actively worked:

Computer Technology including Chatbots/AI: This bill is an update to a bill from the first session and remains a challenging issue. The sponsor, to date, has been unwilling to move off of a section that provides for a private right of action, which is a nonstarter for many of the varied interests throughout the state, including the Delaware State Chamber of Commerce, NCC Chamber of Commerce and other Chambers, the big Tech lobbyists, credit unions, insurance companies and almost any on-line commerce site.

The legislation would make it an unfair and deceptive practice for companies to use AI/Chatbots without sufficient disclosure to the consumer, that they are not interacting with a human. The problem with the legislation arises from the following language: “whether or not any consumer is misled, deceived or damaged as a result” – that is, consumers would still have a private right of action (up to \$5M per occurrence) even if there has not been any actual damage.

We met with the sponsor Rep. Cyndie Romer during the legislative recess and shared our concerns. In particular, financial institutions could follow the letter of the law and would still be vulnerable to lawsuits given the manner in which the bill is currently drafted. At the conclusion of the meeting she did state she heard some different perspectives which she had not considered previously. We anticipate she will circulate a new draft of the bill in early March.

Earned Wage Access: Senator Mantzavinos has shared that it is likely his Earned Wage Access bill will be pre-filed in March, and the Senator indicated to us that he would provide an opportunity to review the final draft prior to the pre-file. While not directly impacting our members, we will likely support the final bill to demonstrate our commitment to the future of financial services in Delaware.

Virtual Currency Kiosks: Work continues to finalize a draft of this bill. David will be meeting the 2nd week of March with the bill’s sponsor, Representative Cyndie Romer, and an advocate from the virtual currency kiosk industry to understand their perspective/concerns. While the sponsor would like to finalize a draft relatively quickly, there continues to be concern that a fiscal note will be required for this bill, which could impact its final drafting. As drafting of the bill progresses, we continue to closely watch activity in other state legislatures on this front and coordinate with our regional peer state bank associations in developing our strategy for Delaware.

Federal Issues

February felt a bit like a US-Canada Olympic hockey match-up in several respects: disappointing judicial decisions met with important legislative parries in response; continued sophisticated

criminal activity facing off with state and federal attempted blockers; and the Government Accountability Office (GAO) versus the White House on an always-controversial regulator, among other things. Oh, and stuck in overtime is the partial shutdown of the federal government, with respect to funding for the Department of Homeland Security (we'll leave that one there for the moment).

Judiciary versus the Legislature

DIDMCA. As we reported last month, the 10th Circuit Court recently overruled a lower court preliminary injunction regarding Colorado's opt-out¹ from The Depository Institutions and Deregulation and Monetary Control Act of 1980 (DIDMCA), the impetus for Delaware's Financial Center Development Act (FCDA), which attracted out-of-state banks and credit card companies to the state and launched our pre-eminence in the industry. Facing the deterioration of dual banking system, not to mention the potential for chaos and confusion in lending administration, industry groups and institutions are readying the appeal and *amicus* briefs, including seeking additional OCC public statements and action beyond Comptroller Gould's (previously reported) scathing commentary including the statement that, "[The court's decision] is fundamentally inconsistent with Congress's efforts to create competitive equality between state and federally chartered banks. Courts or, if necessary, Congress should remedy this outcome."

Indeed, Congress is now beginning to act. Congressman Warren Davidson (OH-08) in conjunction with Senator Bernie Moreno (R-Ohio) introduced the *American Lending Fairness Act of 2026*, which codifies and restores the ability of state-chartered, FDIC-insured banks and credit unions to export their home-state interest rates nationwide, unless that state has explicitly opted-out. This explicitly restricts states' ability to impose their own usury caps on out-of-state lenders. We are working with members to rally additional support for the bill.

Interchange. In what feels like a mirror-image of the DIDMCA fight, a federal court in Illinois partially upheld the first-of-its-kind Illinois state law restricting interchange fees for debit and credit card payments that the industry has been fighting since its adoption. While the ruling strikes down only the portion of the law that restricts the sharing of certain data obtained in transactions and does not definitively end the forestalling of the law's July effectiveness date, the co-plaintiffs have already filed notice of an appeal of the decision at the same time as issuing public statements and strengthening calls to lawmakers to repeal this law before it can do any additional harm to the economy in Illinois and to the dual banking system generally. The Electronic Payments Council has also compiled an extensive toolkit of resources for institutions to share the implications of the tax/tip and related bills, which we're happy to share upon request.

Legislature versus Fraud Bad Actors

In the ongoing fight against fraudsters in their myriad forms and formats, promising legislation is in the works. The Safeguarding Consumers from Advertising Misconduct, or SCAM, Act that Sens. Bernie Moreno (now of DIDMCA fame – see above) and Ruben Gallego (D-Ariz.) introduced would prohibit social media companies and other online media providers from displaying fraudulent or deceptive commercial advertisements and would require companies to take proactive steps to prevent scam ads from appearing on their platforms, such as by giving users better tools to report fraud. The American Bankers Association (ABA), we and our state bank association peers, and numerous industry groups support this legislation, and many states are drafting similar legislation.

¹ As we noted previously, in 2023, Colorado opted out of DIDMCA, claiming it could therefore impose its usury laws on other states' state-chartered banks when lending to Colorado residents.

In fact, the ABA's Paul Benda [testified](#) on behalf of the Nebraska Bankers Association at two recent hearings on the bill.

In other fraud news:

- The Department of Justice put out an [alert](#) about ATM jackpotting.
- On February 13, 2026, the Financial Crimes Enforcement Network (FinCEN) granted optional, immediately effective [exemptive relief](#) to covered financial institutions from the requirement to identify and verify beneficial owners of legal entity customers at every new account opening. Institutions may now adopt a risk-based approach, limiting verification to three circumstances:
 - when a legal entity customer first opens an account;
 - when the institution becomes aware of facts reasonably questioning previously obtained beneficial ownership information; and
 - as necessary under the institution's ongoing customer due diligence procedures.
- The ABA put out a [report](#) on its survey of elder abuse prevention tactics.
- The Delaware Fraud Working Group is hosting a full-day [Fraud Prevention Summit](#) on April 2, 2026. The agenda is wide-ranging and valuable, and I will have the honor of offering the opening keynote.

White House versus Federal Agency: CFPB

The GAO was asked by a handful of Congressional legislators to review the effect of recent stop-work orders, workforce reductions, contract terminations, and other related actions on the Consumer Financial Protection Board (CFPB)'s ability to fulfill its statutorily mandated functions. In response, it issued a [report](#) describing the status of CFPB's significant reorganization efforts as of August 2025 and intends to examine the effects of those actions in a future report. The GAO noted that it provided CFPB multiple opportunities to inform the work and ensure the completeness and accuracy of the information used and reported, but that the CFPB did not take advantage of any opportunity to provide it with information, suggesting that ongoing litigation prevented it from doing so.

Not long after, the White House put out a [report](#) on the costs to consumers of CFPB's activities since its inception in 2011.

OCC versus...itself?

We've previously reported on some of the conditional charter approvals the Office of the Comptroller of the Currency (OCC) has issued in recent months, including [five](#) in the month of December 2025 alone², and a de novo national bank, [Erebor Bank](#), National Association, in October 2025. At the same time, it issued a Notice of Proposed Rulemaking (NPR) on its chartering rules, which drew important comments not only from the ABA but also from the [Conference of State Bank Supervisors](#) (CSBS), including an entreaty not to continue issuing approvals until the process, required elements, and any structural and philosophical changes are clear. Among other things, the OCC proposes to replace the term "fiduciary activities" with "operations of trust companies and activities related thereto" in its chartering regulations.

The ABA's [comment letter](#) encourages OCC to clearly prohibit any charter applicant – other than a subsidiary of a bank or bank holding company – that limits its activities to either "fiduciary activities"

² BitGo Bank & Trust, National Association, Fidelity Digital Assets, National Association, and Paxos Trust Company, National Association.

or “the operations of a trust company and activities related thereto” from including the word “bank” in its name and to ensure, consistent with 12 CFR §5.20(f)(2)(i)(F), that entities not engaged in the business of banking would “not have a title that misrepresents the nature of the institution or the services it offers.” The CSBS put this point even more directly, from the trust angle: “Allowing national trust charters to primarily engage in nonfiduciary activities would exceed the OCC’s authority.”

Housing: More of This, Less of That

At the ABA’s Conference for Community Bankers, the Federal Reserve Board (FRB)’s Vice Chair for Supervision Michelle W. Bowman made a [speech](#) indicating the FRB’s intention to incentivize more mortgage lending from banks. She suggested proposals that would “remove the requirement to deduct mortgage servicing assets from regulatory capital while maintaining the 250% risk weight assigned to these assets,” and consider increasing the risk sensitivity of mortgage loans held by banks — that is, creating a broader range of risk weights that would reflect the relative characteristics of different loans, “rather than applying a uniform risk weight regardless of [loan-to-value ratio].”

Meanwhile, the Federal Housing Finance Agency (FHFA) [repealed](#) a 2024 final rule that codified many of its existing practices and programs regarding fair housing and fair lending oversight of Fannie Mae, Freddie Mac and the Federal Home Loan Banks. The repeal goes into effect March 9, 2026. At the same time, the Department of Housing and Urban Development (HUD) proposed to rescind its 2023 disparate impact rule under the Fair Housing Act (FHA). In this regard, the ABA issued a [comment letter](#) supporting the rescission given its view that the rule is not aligned with the Supreme Court’s reasoning in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, which requires procedural safeguards that it believes are missing from HUD’s 2023 rule.

Broader Industry Topics

Supervision. Regulatory oversight principles and rules, including approaches to chartering of financial institutions continue to shift, while the tension between federal and state control continues.

The *OCC* announced several revisions to its supervisory appeals process, including the creation of a new board to review appeals. Its NPR on revised procedures and policies for appeals by OCC-supervised entities of material supervisory determinations can be found [here](#).

The *FRB* announced a March 26th [public hearing](#) in hybrid format, as part of its required every-10-year review of regulations under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA).

On the *legislative* front, Sens. Tedd Budd (R-N.C.), John Kennedy (R-La.), Andy Kim (D-N.J.) and Angela Alsobrooks (D-Md.) introduced [The Tailored Regulatory Updates for Supervisory Testing, or TRUST, Act](#), which would increase the total asset threshold under which institutions qualify for an 18-month exam cycle from \$3 billion to \$6 billion. A companion bill was introduced in the House by Reps. Tim Moore (R-N.C.) and Ritchie Torres (D-N.Y.) and was advanced by the House Financial Services Committee last year. The House Financial Services Committee also advanced three ABA-supported bills, including the Community Bank Regulatory Tailoring Act, the TRIA Program Reauthorization Act, and the Financial Reporting Threshold Modernization Act; read more about these bills [here](#).

Artificial Intelligence (AI). The [Treasury Department announced](#) it will soon release six resources to enable “secure and resilient” artificial intelligence across the U.S. financial system. The ABA joined several other trade groups in [urging](#) the Commerce Department to maintain the National Institute of Standards and Technology’s AI Risk Management Framework, which has become the cornerstone of trustworthy AI development. As we shared previously, the ABA has offered a [list of principles](#) to guide any legislation relating to artificial intelligence in financial services, including the desire for comprehensive laws establishing an AI risk management framework, though strongly arguing for a framework with strong preemption of state requirements, given the fact that banks already are subject to an extensive compliance regime covering nearly all risks associated with AI, including fair lending and cybersecurity.³

Payments. The payments ecosystem continues to evolve, and we will surely have more concrete developments to report in the months ahead. In the meantime, consider the ABA’s recommendations regarding “[skinny](#)” [master accounts](#) and cautions regarding [stablecoin](#) as a payment rail.

Community Investment. To mark the ABA Foundation’s 100th anniversary, it surveyed bankers, community leaders and other changemakers to share their best ideas for how banks can advance economic opportunity in the next century. Its resulting report, [Influencing Banking’s Next Century](#), captures those ideas and summarizes recommendations for how banks can drive meaningful economic and community impact in the decades ahead.

³ A Delaware Bankers Association Easter egg for those who read these Legislative Updates carefully: save the date for our Annual Dinner on May 14, 2026, where the ABA’s exceptional Brooke Ybarra will speak about AI, digital assets, payment rails, and more. Registration link coming soon.