SHARE:

Join Our Email List

View as Webpage

Volume 2, Issue 11

A New Bill Could Allow Digital Closings Nationwide

"Dubbed the SECURE Notarization Act, the bill would allow for remote online notarization services nationwide."

Why this is important: In the wake of the coronavirus pandemic, the days of in-person real estate closing may be going by the wayside. During the pandemic, several states adopted remote notarization practices that allowed for remote closings. Now, Congress is considering the SECURE Notarization Act that would enable remote notarization services for all licensed notaries in the country provided they follow certain security matters such as "tamper-evident technology" or multifactor authentication. **The Act would apply not only to real estate closings, but would liberalize notarization for any document, including estate papers and affidavits.** --- Bryan S. Neft

---

Big Banks Look for Post-Pandemic Rebound of Credit Card Revenue

"Banks have increased digital marketing, too, on Facebook, Instagram, video sites and podcasts."

Why this is important: During the pandemic, credit card companies decreased credit card offerings and decreased credit limits due to the uncertain economic times. Indeed, credit card balances declined by 14 percent during the pandemic and the number of accounts that had a revolving balance dropped to 39.7 percent in December (down 4.4 percent from December 2019). As the economy recovers, lenders "have been sending out more promotions to enroll new customers" and encourage spending. **Consumer spending is one of the indicators that experts look at for overall health of the economy, and the impact of these new promotions will provide an indicator as to how quickly--and if--the economic recovery will last long-term.** --- Angela L. Beblo

---

Home Foreclosure Risk Lowering Amid Post-COVID Economic Stabilization

"In fact, the latest data from Black Knight, a mortgage technology and data provider, shows that mortgage delinquencies could hit pre-pandemic levels by the end of 2021."

Why this is important: After COVID-19 impacted 2020, the risk of residential foreclosure has declined with the latest mortgage data showing delinquencies likely to hit pre-pandemic levels by the end of 2021. According to the data, mortgage delinquencies (past due 30 days or more, including those in forbearance) dropped 7.11 percent in April to 4.66 percent, marking the first time delinquencies fell below 5 percent since the pandemic began. These figures translate to approximately 400,000 homeowners getting current on their mortgages in April. Concern remains, however, because more than 1.8 million homeowners remain in serious delinquency (90 days or more past due, but not in foreclosure) with the vast majority of those loans in forbearance. **As federally backed and private mortgage forbearance periods conclude later this year, the third and fourth quarters may better show if stabilization will continue.** --- Bryce J. Hunter

---

A Call for Congress to Get Serious About Robocalls While Protecting the First Amendment—Here's How

"Rather than repair this perfectly fixable flaw, Congress has stubbornly elected to keep the TCPA's basic framework in place for decades—heaping additional penalties on businesses using certain calling technology as the Robocall epidemic worsened, but never seeking to regulate the actual type of calls that plague us the most."

Why this is important: As someone who receives several scam telephone calls and texts a day, I have often wished there was a way to make them stop. Congress passed the Telephone Consumer Protection Act ("TCPA") in 1991 to prevent robocallers, but "thousands of TCPA lawsuits are filed every year seeking to enforce the statute, [and are] mostly against legitimate American businesses and not the real bad guys." According to this article, this problem could be fixed by targeting the message and not the technology used to send the message. While legislation targeting the content of these calls likely would implicate the First Amendment, the article points to other categories of speech not covered by the First Amendment and states that "the First Amendment permits Congress to ban the precise categories of speech that post the biggest risk to Americans." The problem with this approach is trying to craft a definition for this category of unprotected speech. In order to craft an effective definition, Congress must create one that is broad enough to cover all aspects of this speech, but narrow enough to avoid having the statute struck down as unconstitutional. **As a content-based restriction, the law would be subject to strict scrutiny, and Congress would need to show that the law was narrowly tailored to achieve a compelling government interest. This is a high burden to satisfy, but if enough Justices have been receiving the same calls I have, they very well could find the interest compelling.** --- Kellen M. Shearin

---

Capping Payday Loan Rates at 36% May Not Fully Protect Consumers—Here's What Researchers Say Will

"Consumers may be best served by rules that require lenders deny borrowers any new loans for a 30-day period after they've taken out three consecutive payday loans, the report finds."

Why this is important: Illinois and Nebraska recently restricted caps on consumer and payday loan interest rates to 36 percent. Experts believe that capping interest rates will not serve their intended purpose of keeping consumers from overreaching on high cost debt. Instead, they believe a rule that requires lenders to deny borrowers new loans for a 30-day period after they've taken out three consecutive payday loans would give borrowers an incentive to avoid payday loans by requiring the loans to be paid back sooner. **The cool-down period needs to be at least a month to actually force borrowers to go a pay cycle without getting a payday loan.** --- Bryan S. Neft

---

Banks to Offer Credit Cards to People Without Credit Scores

"As early as this fall, banks such as JPMorgan Chase, Wells Fargo and U.S. Bancorp will launch a collective pilot program that factors in data from applicants' savings and checking accounts to boost their chances of getting a credit card."

Why this is important: There are millions of individuals across the United States who are unbanked and/or without access to traditional credit products. While there are various ways to build credit, "having and effectively using a credit card is the best way to build solid credit over time." Indeed, about 53 million U.S. adults do not have traditional credit scores, according to the creator of the FICO metric. Lack of a credit score makes it difficult, if not impossible, to access credit and favorable credit terms that can save individuals thousands of dollars on purchases. This fall, JPMorgan Chase, Wells Fargo, and US Bancorp will collectively launch a program that relies upon an individual's checking and savings accounts as factors to consider when reviewing an application for a credit card. **If successful, not only will millions of Americans have new access to credit, but other entities may follow suit with similar initiatives**. --- Angela L. Beblo

Student Debt Forgiveness isn't in Biden's Annual Budget—Here's Why Experts Say that's 'Not Surprising'

"'President Biden is still waiting for the U.S. Department of Justice and the U.S. Department of Education to report on their review of his legal authority to forgive student loan debt through executive order,' explains Kantrowitz."

Why this is important: Throughout the recent presidential campaign, now-President Biden promised to cancel up to $50,000 of student loan debt for qualifying individuals. It looks like that may be easier said than done. The President now has tempered his campaign promise and requested a legal memorandum from the U.S. Department of Justice and U.S. Department of Education as to whether he can forgive the debt as promised. Scholars' predictions on the results of this memorandum are split. **Regardless of the outcome, the American consumer is well-advised not to expect the federal government to cover debts that the consumer already has incurred, no matter what is promised on the campaign trail.** --- James E. Simon

Featured Spilman Attorney Profile

Matthew P. Heiskell
Member
Morgantown, WV
office 304.291.7932
Pittsburgh, PA
mobile 304.881.2296
mheiskell@spilmanlaw.com

Mr. Heiskell is a Member in our Morgantown and Pittsburgh offices. His practice encompasses state and federal trial work and litigation, with a focus on complex commercial litigation, mineral and energy law, corporate and partnership business disputes, consumer finance law, and class actions. Matt also has experience handling matters before the West Virginia Business Court Division.

Matt was nominated by his peers for inclusion in The Best Lawyers in America in the area of Commercial Litigation. He is admitted to the West Virginia, Pennsylvania, and New York State Bars; United States District Courts for the Southern and Northern Districts of West Virginia; United States District Courts for the Southern and Eastern Districts of New York; and United States Court of Appeals for the Fourth Circuit. He received his B.A. from West Virginia University, his J.D. from Duquesne University School of Law, and his LL.M., International Trade and Banking from American University Washington College of Law.

Share Tweet Share