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Recent Legislative Activity

Colleen P. Sheehan

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Disclosure of Deposit Account Terms

The House of Representatives is considering passage of the **Truth-in-Savings Act** in order to achieve uniformity in the disclosure of terms and conditions for paying interest on deposit accounts. The main purpose of regulating disclosure of interest terms is to help consumers make informed decisions regarding their banking. The Act would allow consumers to more readily compare rates and terms of deposit accounts at competing financial institutions. In addition, financial institutions would be required to disclose all fees and service charges assessable against deposit accounts.

The Act would require disclosure of rates and terms in all advertisements, solicitations and announcements for demand-deposit and interest-bearing accounts. One specific provision would prohibit financial institutions from advertising or describing any account that requires minimum balances or has a limited number of transactions as a free or no cost account. Financial institutions would also be required to maintain a schedule of all service charges and interest term information. **H.R. 2654, 102nd Cong., 1st Sess. (1991).**

Privacy in the Workplace

The House of Representatives is currently considering the **Privacy for Consumers and Workers Act** which is intended to prevent the abuse of electronic monitoring in the workplace. Any employer that uses electronic monitoring would be required to inform prospective and current employees in writing how the monitoring would effect them. Unless the monitoring is constant, the employees must also be given visual or aural notice, such as a blinking light or beeping tone, that the monitoring is taking place.

In addition, employees would have access to all personal and work performance data obtained through the use of electronic monitoring. Any personal data collected would have to be relevant to the employee's work performance. Employers would be prohibited from distributing the personal data unless they had the employee's permission. Exceptions for disclosure without consent would include disclosure to the employer's officers and employees who need the information to perform their duties, to law enforcement agencies for purposes of a criminal investigation or prosecution, or pursuant to a court order. Additionally, employees would not be allowed to waive the rights under the Act, by contract or otherwise. **H.R. 1218, 102nd Cong., 1st Sess. (1991).**

Tobacco Education & Safety

The U.S. Senate is currently considering the **Tobacco Product Education & Safety Protection Act of 1991** which would establish a center on tobacco and health within the Centers for Disease Control to provide greater public information on the hazards of smoking. Additionally, the Act would provide for disclosure of additives to tobacco products. The Act would provide for outreach services to youths, assistance to states in enforcing laws prohibiting the sale of tobacco to minors, statewide educational programs, and increased research on tobacco use patterns.

Although tobacco consumption has declined, 532 million Americans continue to use tobacco annually. Tobacco use causes over 434,000 deaths each year, the equivalent of over 1,000 deaths per day. Moreover, individuals with the least amount of education are more likely to smoke than those with the most education. This Act is intended to provide education and outreach on the health risks of tobacco use. **S. 1088, 102nd Cong., 1st Sess. (1991).**

Credit Report Restrictions

California has recently amended its credit reporting statute to prohibit consumer credit agencies from including information about an unlawful detainer action in a credit report unless the prevailing party was a lessor. Previously, the statute prohibited release of information on all unlawful detainer actions no matter whom was the prevailing party. The lessor is deemed a prevailing party if a final judgment was awarded to the lessor or if a written settlement agreement authorizes reporting of the action.

The Act also prohibits a credit agency from disclosing in a consumer credit report bankruptcies filed more than fourteen years ago, suits and judgements over seven years old, paid tax liens over seven years old, collection accounts over seven years, and police records over seven years old. In addition to these specific types of information, the Act prohibits disclosure of any adverse information more than seven years old.

Several types of transactions are exempted from the above prohibitions. Regardless of how old the information is, it may be reported in any transactions involving: (1) the employment of an individual with an annual salary of $30,000 or more, (2) the rental of any dwelling with a rent exceeding $1,000, or (3) a credit transaction involvng $50,000 or more. **A.B. 1796, Cal.**

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Ass., 1991-92 Reg. Sess. (1991) (amending Cal. Civ. Code §§ 1785.13 and 1786. 18 (1991)).

Dog Pedigree No Guarantee

California law now requires dog dealers to conspicuously post a sign that pedigree registration does not guarantee proper breeding conditions, health, quality or claims of lineage. The new law will require dog dealers to inform prospective dog purchasers of the limited meaning and accuracy of dog registries. In addition to posting signs, dealers must provide oral and written disclosures to any puchasers. Failure to comply with the disclosure law may result in civil damages of three times the purchase price.

The new law is a response to increasing evidence that dogs sold with a breed registry suffer from poor health or genetic defects. Consumers have mistakenly relied on breed registration as indications of a dog's health and temperament and were willing to spend large sums of money for registered dogs. With approximately one half of the 17 million registered dogs in this country commercially bred, lineage claims and breeding conditions cannot be verified due to the small number of registry investigators. **S.B. 1020, Cal. 1991-92 Reg. Sess. (1991) (amending Cal. Health & Safety Code §§ 25996.950 et. seq. (Deering 1992)).**

Financial Institutions Exempt From Hazardous Waste Liability On Foreclosure Property

Illinois has recently amended its **Environmental Protection Act** in order to protect financial institutions from liability for hazardous waste releases on property acquired by foreclosure. The Act previously imposed liability on all "owners" or "operators" of a vessel or facility that released hazardous waste. Under the new amendment, financial institutions will no longer qualify as an "owner" or "operator" if they acquired their interest by foreclosure, security interest, or extension of credit. Liability will only be imposed if the financial institution caused the hazardous waste release.

The Act was also amended to create two special funds for the fees collected from violators of the Environment Protection Act. The funds will pay for state expenses incurred during cleanup of hazardous waste sites and for hazardous waste research. **H.B. 687, Ill. 87th Gen. Ass., 1991-92 Reg. Sess. (1991) (amending Ill. Rev. Stat. ch. 111 1/2, para. 1022.2).**

Licensing of Home Care Services

Colorado is considering legislation that would require all home care service providers to be licensed by the Department of Health. The act defines home care service providers as anyone providing clients with equipment, supplies, medication or assistance with daily living activities at the client's residence. A newly created Home Care Advisory Board would recommend minimum standards to the State Board of Health regarding qualifications of and supervision over licensed and unlicensed staff, the use of informed consent contracts and establishment of consumer complaint procedures.

Providers certified by medicare, medicaid, or specific health professional organizations, as well as licensed hospices, would be automatically exempted from the licensing requirements. All other home care providers would have to apply and be investigated by the Department of Health before a two year license would be issued. Anyone practicing without a license or providing false information on their license application would be subject to misdemeanor charges and fines up to five thousand dollars. **H.B. 1159, Col. 58th Gen. Ass., 1992 Reg. Sess. (1992).**

Slaughter Prohibitions

Wisconsin recently amended its Food Regulation laws to prohibit certain slaughter and meat processing establishments from selling "seasoned" meat, such as bratwurst, to restaurants or institutions. Current law, with one exception, requires that every establishment that slaughters animals or processes meat for consumption be licensed for that purpose by the Department of Agriculture. Establishments which only process meat for retail sale directly to consumers on the premises or restrict sales to restaurants and institutions to a certain volume are exempted from the licensing provisions. The volume of sales cannot exceed the lessor of 25 percent of the volume of the establishment's meat sales or $28,000 annually.

Any establishment that is exempt from the licensing requirement is prohibited from selling cured, smoked, canned or cooked meat, but under the amendment will also be prohibited from selling seasoned meat to restaurants and institutions. The proposed amendment would bring Wisconsin's meat inspection laws into conformity with federal meat regulations. **A.B. 704, Wis. 90th Leg. Sess., 1991-92 Reg. Sess. (1991)(amending Wis. Stat. 97.42(2)(b) (1989-1990)).**

Landscaping Sales Tax Exemption

Ohio is considering an amendment that would provide persons who are sixty years of age or older or disabled with a sales tax exemption on landscaping and lawn care services. Under the amendment, the exemption for the sales tax would not be automatic; buyers must prove that they meet the requirements in order to qualify for the tax exemption. Once the buyer proves he qualifies, the buyer will be furnished a state issued card, the Golden Buckeye Card, or a certificate specifying the reason that the sale is not subject to the tax. Either the Golden Buckeye Card or the certificate must be furnished to a vendor upon purchase or the exemption will be denied. **1991 OH S.B. 251.**

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Consumer News

Federal Government Moves To Combat Doctors' Self-Dealing

As the nation begins to focus on health care, new attention is being paid to the volume of tests and treatments which physicians prescribe. Many critics of our health care system contend that too many tests are performed and that in some cases, excessive treatment is prescribed.

Physicians prescribe so many tests and treatments for a number of reasons. Physicians have an incentive to order extra tests to defend themselves against future malpractice claims. In addition, as medical technology advances more tests and treatments are available. Finally, due to our aging population, the demand for medical services of all kinds has grown.

As more doctors invest in laboratories and treatment centers, they may have an extra incentive to prescribe special tests and treatments for their patients. Many doctors argue that their investment activity generates the capital needed for expensive and sophisticated testing equipment, such as magnetic resonance imaging machines. Critics, however, suggest that there is a clear conflict of interest for doctors who own the testing facilities to which they refer their patients.

The U.S. Inspector General conducted a study covering eight states which found that "on average, physicians involved in joint ventures order more tests or services for their medicare patients," and that those patients are "charged more for such services." Last year, the Florida Health Care Cost Containment Board ("Board") commissioned a survey of 2,200 clinics statewide to study the impact of physician ownership in medical testing ventures.

The Florida study revealed that 45 percent of the physicians licensed in that state had invested in medical joint ventures to which they could refer their patients for testing or treatment. The study also indicated that doctor-owned joint ventures "perform more tests per patient, have higher charges and provide a lower quality of services" than other laboratories.

Following the Board's report, the Florida legislature passed the Patient Self-Referral Act ("Self-Referral Act"). Under the Self-Referral Act, doctors who have invested in medical joint ventures have until October, 1995 to cease making referrals to facilities in which they continue to have a financial interest.

On a national level, the Federal Department of Health and Human Services adopted new rules designed to discourage doctors who are paid through Medicare and Medicaid from investing in the facilities to which they commonly refer their patients. In addition, Congress enacted new legislation, effective January 1, 1992, barring doctors who have a financial interest in a clinical laboratory from referring their medicare patients for tests to be performed by the laboratory.

The federal legislation, however, only addresses self-dealing with respect to clinical laboratory tests. Some groups have suggested that the scope of this new law should be expanded to cover referrals for physical therapy and radiation treatment as well. The Florida report indicates that physicians also own treatment centers to which they refer their patients for such treatments as physical therapy or radiation.

Impact of Solomon Scandal on Consumers

The recent treasury auction scandal, in which Solomon Brothers ("Solomon") played a leading role, illustrates how unethical conduct in financial markets may impact consumers. The scandal turns on allegations that Solomon manipulated the prices of United States treasury securities sold at monthly auctions. Activity at the monthly treasury auctions sets the interest rate the government will have to pay on treasury securities, affecting consumers in at least two ways.

First, the interest rate on treasury securities influences other interest rates throughout the economy. Because treasury securities are backed by the full faith and credit of the United States Government, they are considered the safest securities available.

The interest rate on treasury securities provides the floor for all other interest rates throughout the economy, from home mortgage rates to the prime rate paid by corporate borrowers. For example, as the prevailing interest rate on treasury notes goes up, the prevailing home mortgage rate is likely to go up.

Furthermore, the interest rate on treasury securities impacts the government's ability to reduce the deficit. The United States government finances its deficit by selling treasury securities at periodic auctions. Generally, when the interest rate on securities goes up, the price goes down. The government realizes less cash to apply toward the deficit and incurs more interest liability, making the deficit larger.

Solomon allegedly manipulated prices at monthly auctions for treasury securities held by the United States government. These auctions are sometimes known as the primary market because the government only sells directly to 40 primary dealers, who in turn sell to the public in what is known as the secondary market. Solomon Brothers is one of the 40 primary dealers. The primary dealers, through the bidding process at treasury auc-

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