



# **MBA Advocacy Report**

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## **State Budget Woes Could Impact Industry with a Backdoor Tax Increase**

Attempts to alleviate the state's budget woes may be setting dangerous precedent for the banking industry. As part of the fiscal year 2007 budget, one option being considered raids the fund that the Office of Financial and Insurance Services (OFIS) uses to regulate the mortgage industry. Commandeering the \$7 million in funds earmarked for regulation of the industry precipitates an inevitable increase in fees. While adequate oversight of the mortgage industry is in everyone's best interest, a similar situation could transpire in the banking arena next.

## **MBA Pushes Trust Fix**

MBA-initiated legislation introduced by Rep. David Law addresses the need for clarity in the Michigan Banking Code regarding trust issues. The bill (HB 6299) is in the House Banking and Financial Services Committee.

Currently, the statute states that a fiduciary may charge a reasonable fee for its services. The proposed change includes additional language to further define and provide guidance as to what is a reasonable fee. Many judges are arbitrarily reducing the fees paid to banks for their services after the services have been provided. This amendment would state that a fee is reasonable if it is specified in a fee schedule.

The second part of the legislation addresses the bank's ability, as fiduciary, to purchase services or investments through itself or an affiliate without violating the rules against self-dealing. The current statute allows the bank to purchase services or investments through itself or an affiliate only by law, court order, trust terms or agreement of all interested parties.

## **Bills Combat Mortgage Fraud**

A package of bills set to be introduced in the Michigan House of Representatives attempts to combat mortgage fraud. The bills will increase criminal penalties and make additional funds available to the attorney general's office for prosecution. Specifically, the legislation is aimed at limiting mortgage fraud through inflated appraisals. The MBA was involved in discussion with the bill sponsors prior to their introduction and will continue to work with lawmakers as the bills move through the chambers.

**For more information on any of these issues, please contact [John Llewellyn](#) at (517) 342-9058.**