



InfoSight Highlight

Join Us for a Compliance Call on the New Georgia Garnishment Law!
A new garnishment law is now on the books.

Governor Nathan Deal signed the amended garnishment bill into law seven months after a federal judge said the state law was unconstitutional.

The judge's ruling stopped garnishments in Gwinnett County, where the case was filed. Some other counties stopped processing garnishments, at least temporarily, while questions about what was permitted persisted.

The new law clarifies what money in accounts is exempt and explains how quickly it can be recovered if it is taken improperly. It describes what a debtor should do if exempt money has been taken and explains the redress debtors would have. The law includes forms that have to be sent with a notice of garnishment.

This new rule means there will be changes in credit union procedures for processing garnishments, and new notices to provide to consumers. Please join us on **April 29, 2016 at 1:30 p.m.** for a compliance call to see what changes your credit union will need to make. **Our host for the call will be Adam Cleveland, an attorney with the law firm of Thompson | O'Brien.**

No registration is required for the call. Call-in instructions will be sent via email a few days before the call.

Compliance News

ADA and Use of an Interpreter

Question: How can we remain compliant with ADA and privacy policies when members call us with an interpreter?

Answer: According to [CUNA's Compliance Blog](#), the telecommunications industry, particularly as it relates to relay services for the hearing impaired, must comply with privacy regulations that are similar to those of the financial services industry (Regulation P) to protect consumers' privacy and confidentiality.

Additionally, the information the credit union shares over a relay service will likely meet an exception to Regulation P, such as §1016.14 that

GEORGIA CREDIT UNION

Affiliates

InfoSight
Compliance eNEWSLETTER
April 18, 2016
Vol. 10, Issue 16

Created in partnership with the



Credit Union National Association

Compliance Calendar

April 22
5300 Call Report Due to NCUA

May 2
Credit Card Quarterly
Agreement Submission Due to
CFPB (10,000 or more open
credit card accounts)

May 30
Memorial Day - Federal
Holiday

June 30
PCI - SSL/TLS can no longer
be used as a Security Control
after this date

Child Support Data Match
Reimbursement Deadline

**[Click here for upcoming
compliance dates.](#)**

Compliance Training

allows disclosure of nonpublic personal information “as necessary to effect, administer, or enforce a transaction that a consumer requests.”

It’s hard to believe that it’s been 25 years since this regulation was enacted in 1991. Here are five things your credit union should know/remember about the ADA:

1: What is the ADA?

The Americans with Disabilities Act (ADA) was passed in 1990 to eliminate discrimination against individuals with disabilities in the areas of employment, public accommodations (businesses that are open to the public), state and local government services, and telecommunications.

The most significant parts of the ADA for credit unions are Title I - employment requirements, and Title III - public accommodations.

2: What are the ADA Requirements for Credit Unions as Employers?

The goal of Title I is to make sure disabled individuals have the same employment opportunities and privileges available to people who are not disabled. Persons with disabilities are not entitled to job preferences, but they are entitled to be evaluated for positions based on their qualifications, not their disabilities.

Credit unions are required to make reasonable accommodations to the known disabilities of qualified applicants or employees, unless it would create an undue hardship for the credit union.

If the credit union can show that the cost of the accommodation would impose an undue hardship, you would still be required to provide the accommodation if the funding is available from another source, for example, a State vocational rehabilitation agency, or if Federal, State or local tax deductions or tax credits are available to offset the cost of the accommodation.

If the credit union receives, or is eligible to receive, monies from an external source that would pay the entire cost of the accommodation, you cannot claim cost as an undue hardship. In the absence of such funding, the individual with a disability requesting the accommodation should be given the option of providing the accommodation or of paying that portion of the cost which constitutes the undue hardship on the operation of the business. To the extent that such monies pay or would pay for only part of the cost of the accommodation, only that portion of the cost of the accommodation that could not be recovered—the final

April 19, 2016
[Effective Management of Credit Report Disputes - Webinar](#)
3:00 – 4:30 p.m. EST

April 20, 2016
[Troubled Debt Restructuring: Determination & Accounting - Webinar](#)
3:00 – 4:30 p.m. EST

April 25, 2016
[Examining Complex TRID Issues, Part 1: Application Through Loan Estimate & Revised Loan Estimate – Webinar](#)
3:00 – 4:30 p.m. EST

April 26, 2016
[Regulator Expectations for Risk Assessment: Policies, Procedures & Steps in Obtaining Board Approval - Webinar](#)
3:00 – 4:30 p.m. EST

April 27, 2016
[Hot Topics in Compliance - NCUA Webinar](#)
2:00 p.m. EST

April 27, 2016
[Call Report Preparation: Avoiding Common Errors - Webinar](#)
3:00 – 4:30 p.m. EST

April 28, 2016
[ACH Rules Update 2016 -](#)

net cost to the credit union—may be considered in determining undue hardship. (29 CFR 1630)

3: What are the ADA Requirements for Credit Unions as “public accommodations”?

Every credit union, as a “public accommodation,” is covered by the Act and must comply by making its facilities and services accessible to the disabled – in some cases even if the credit union never has a disabled member. Architectural barriers must be removed if it can be easily accomplished, without much difficulty or expense.

The most common question received lately from credit unions regarding this provision is in relation to making products and services accessible. The rule requires that credit unions “take necessary steps to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals” due to the absence of “auxiliary aids and services”, unless the credit union can demonstrate that taking those steps would fundamentally alter the product/service or would result in an undue burden. (28 CFR 36.303)

The rule lists many examples of auxiliary aids and services, such as:

- Braille materials and displays;
- Qualified interpreters;
- Exchange of written notes;
- Taped text;
- Audio recording;

The rule requires credit unions to furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities. A credit union may not require an individual with a disability to bring another individual to interpret for him or her.

The rule does not require a credit union to alter its inventory to include accessible or special goods that are designed for individuals with disabilities. However, if a member with a disability requests an accessible good or service, the credit union must order it, if, in the normal course of its operation, you make special orders on request for unstocked goods, and you can obtain it from a supplier with which you customarily do business.

Webinar

3:00 – 4:30 p.m. EST

April 29, 2016

GCUA Compliance Call - New Georgia Garnishment Law

1:30 p.m. EST

May 3, 2016

Conducting the Annual Physical Security Review –

Webinar

3:00 – 4:30 p.m. EST

May 4, 2016

Loan Participation Due

Diligence: Practices,

Documentation, Servicing &

Risks – Webinar

3:00 – 4:30 p.m. EST

May 10, 2016

Succession Planning for the Board & Supervisory

Committee - Webinar

3:00 – 4:30 p.m. EST

May 11 – 14, 2016

GCUA Annual Convention

Savannah, GA

May 11, 2016

Business Accounts: Who is Authorized to Open, Close,

Transact? – Webinar

3:00 – 4:30 p.m. EST

May 12, 2016

Managing the Force-Placed Insurance Process - Webinar

3:00 – 4:30 p.m. EST

May 16, 2016

Examining Complex TRID

Issues, Part 2: Closing

Disclosure, Tolerances & the

You may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of, for example, auxiliary aids or barrier removals. (28 CFR 36.301)

4: What is an “undue burden” or an “undue hardship?”

The rule defines **undue burden** as “significant difficulty or expense” and provides the following factors to consider (28 CFR 104):

- The nature and cost of the action needed;
- The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
- The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
- If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
- If applicable, the type of operation or operations of any parent corporation or entity, including the composition structure, and functions of the workforce of the parent corporation or entity.

The rule defines **undue hardship** as “significant difficulty or expense” and provides the following factors to consider (29 CFR 1630.2):

- The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
- The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;
- The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and

Good Faith Analysis – Webinar
3:00 – 4:30 p.m. EST

May 17, 2016
Wire Transfer Compliance, Including International Remittances – Webinar
3:00 – 4:30 p.m. EST

May 24, 2016
Understanding & Managing the CFPB Complaint Process – Webinar
3:00 – 4:30 p.m. EST

May 25, 2016
Developing Quality & Efficiency in Your IT Audit – Webinar
3:00 – 4:30 p.m. EST

June 2, 2016
Best Practices for Member Business Lending - Webinar
3:00 – 4:30 p.m. EST

June 7, 2016
Hiring in the Digital Age: What Every HR Manager Needs to Know About Social Media – Webinar
3:00 - 4:30 p.m. EST

June 8, 2016
Federal Government ACH Payments, Reclamations & Garnishments - Webinar
3:00 – 4:30 p.m. EST

June 9, 2016
FFIEC Cyber Security Risk Assessments: Recent Findings & Recommended Actions - Webinar
3:00 – 4:30 p.m. EST

- The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

5: Latest Developments

Although the language of the ADA does not explicitly mention the Internet (not surprisingly, it was enacted in 1990), the Department of Justice has taken the position that title III covers access to Web sites of public accommodations. No proposed regulations have been issued on Web site accessibility, however the DOJ states in the guidance to the rule that it expects to engage in rulemaking relating to Web site accessibility under the ADA in the “near future”. (See the [December 14, 2015](#), edition of *InfoSight eNewsletter* to get a better understanding of what “in the near future” means.)

Visa Card Issuers Must Offer Transaction Alert Capability by October 2016

Visa will require North American consumer card issuers to offer Transaction Alerts to their cardholders by **October 14, 2016**. Note that the issuer need only offer the alerts, which can be an effective fraud deterrent - the cardholder is not obligated to activate them.

Credit union card issuers have several alternatives for complying with this mandate. They can offer the alert service themselves, through a third-party service provider, a VisaNet processor, or (for a fee) through the Visa Transaction Alerts Service.

The mandate applies to debit, credit, and reloadable prepaid cards. Most third party processors already offer transaction alert services, or are working with Visa to meet the October 14 deadline. Credit unions should develop an operational plan to meet the October 14 deadline, as well as a communication plan for both members and employees.

For more information, see Section 10.15.5 Visa Transaction Alerts Service Requirements of the [Visa Core Rules and Visa Product and Service Rules](#) (October 2015).

June 10 – 17, 2016
[Southeast CUNA Management School](#)
Athens, GA

June 14, 2016
[Comparing Regulation E Requirements with Visa & MasterCard Rules](#) - Webinar
3:00 – 4:30 p.m. EST

June 16, 2016
[ACH Rules for Deceased Account Holders & Federal Government Payments](#) - Webinar
3:00 – 4:30 p.m. EST

June 21, 2016
[The Growing Scope of Vendor Management: Business Continuity, Cyber Security, Contract Negotiation & More](#) - Webinar
3:00 – 4:30 p.m. EST

June 22, 2016
[Product Terms Part 1: Modifying Existing Product Terms & Fees, Including Timing, Content & Requirements for Change-in-Term Notices](#) - Webinar
3:00 – 4:30 p.m. EST

June 23, 2016
[Legal Aspects of HELOCs: Disclosures, Advertising, Termination, Credit Line Reduction & More](#) - Webinar
3:00 – 4:30 p.m. EST

June 26 – 29, 2016
[America’s Credit Union](#)

Conference
Seattle, WA

June 27, 2016
Developing a Sound Appraisal Management Program - Webinar
3:00 – 4:30 p.m. EST

June 29, 2016
Understanding FCRA Permissible Purposes in Obtaining Credit Reports - Webinar
3:00 – 4:30 p.m. EST

June 30, 2016
Compliance Officer Training: Risk Assessments, Monitoring & Testing - Webinar
3:00 – 4:30 p.m. EST

BSA Training Opportunities through GCUA
[Click here for details](#)

Your CU Should Know...

BSA: The topic was the Bank Secrecy Act (BSA) recently at CUNA's Regulatory Compliance School. The discussion pertained to...a couple of years ago NCUA and FinCEN entered into an agreement where NCUA agreed that whenever an examiner finds a "significant" BSA violation during an exam, the examiner will: (1) issue a Document of Resolution (DOR), (2) rate the credit union's BSA risk as "high", and (3) return to the credit union in 90 days to confirm the violation has been addressed.

After this agreement was confirmed, one of CUNA's Compliance staff asked the NCUA examiner how the agency defines "significant" and learned that it is described in NCUA's supervisory guidance, which is not readily available to credit unions. She did clarify, however, that just about every violation could be considered "significant."

Her recommendation if you find yourself in this situation: initiate a conversation with your examiner and do your best to fix the violation while the examiners are still on site – at the very least this could save you a second visit from your examiners.

Also, several of the school attendees initiated a lively discussion about how to detect money services business (MSB) accounts when they are not identified as such upon account opening. Since there is currently no guidance in the rules, attendees offered the following possible "best practices":

- Check FinCEN's MSB registry and see if your business account member is listed as an MSB.
- Do not rely completely on your BSA software to detect MSB activity. For example, your business account member may not disclose that it will be making regular large currency transactions and international wire transfers (so you did not flag it as a possible MSB). Your software vendor may not be aware of the expected transaction activity included in the credit union's account opening documentation and consequently could identify these transactions as "normal transaction behavior". To help identify MSB accounts, credit unions should manually monitor their accounts' activities, in addition to your software

monitoring, to ensure the activity matches what the members described when opening their account.

NCUA Posts Report on Serving the Credit-Invisible: "[Serving the Credit-Invisible](#)," a new report posted by the National Credit Union Administration (NCUA), explains how credit unions can build loan programs based on sound underwriting, appropriate risk management, loan monitoring and staff training that can help them reach this underserved population. The report details how to evaluate a loan applicant who is "credit-invisible" and describes best practices for serving those members within the normal boundaries of safety and soundness. Credit-invisible consumers may lack credit scores because they have limited or incomplete credit histories. They are not necessarily subprime borrowers, but their credit activity may not be reported to a credit bureau. Nonetheless, these consumers may have a good history of making timely payments for expenses like rent, insurance and utilities. The CFPB [reported](#) in 2015 that as many as 26 million Americans may fall into this category.

NCUA to Host Twitter Chat on Protection of Personal

Information: A live [twitter chat](#) will be hosted by the NCUA to help consumers protect their money and personal information from consumer financial fraud. The chat is scheduled for **April 27, beginning at 11:00 a.m. EST**. Credit unions and consumers can follow @MyCUGov and contribute to the conversation using the #NCUAChat hashtag on Twitter.

Comment Calls

The [CUNA Advocacy Update](#) keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. You can view the current report and past reports from the archive.

Click [here](#) to request to be added to the mailing list for this and/or other GCUA email publications.

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Email compliance@gcua.org.