

Index

[References are to sections.]

A

- Abandoned securities and other property, escheat, 2.06**
- Abandonment of property by trustee or debtor-in-possession, 46.25**
- Acceleration clauses, 83.15**
effect of provisions for additional powers or benefits, 85.05
- Acceptance**
defined, 108.05
form of, 108.10
liability of acceptor, 108.00
- Accommodation paper, 73.20**
- Accommodation party, liability of, 112.00**
discharge where notice of dishonor not timely, 112.25
indorser and warranties, 112.20
liability in general, 112.10
nature of accommodation, 112.05
obligation supported by consideration, 112.30
proof of accommodation, 112.15
- Accord and satisfaction, 125.15**
- Accountant liability, 10.05**
- Accountings**
periodic by trustee, 68.20
- ACH transactions, 17.12**
- Acquisition**
See also Mergers
of banks by bank holding companies, 30.10
of real property, 11.00, 11.05
- Administrative expenses, claims against bankruptcy estate, 43.10**
- Administrative proceedings of Federal Reserve Board, 22.06**
- Administrative remedies, 22.06**
- Administrators. *See* Executors and administrators**
- Advances to bank, authority of directors, 4.15**
- Advising bank, defined, 164.20**
- Advisory opinion, 50.15**
- After-acquired property, 181.25**
- After-born children and wills, 65.15**
- Age Discrimination in Employment Act (ADEA), 5.67**
- Agents**
depository bank as agent for collection, 136.00
- Agricultural supplies, 179.05**
- Alimony as nondischargeable debt, 45.25**
- Alteration of commercial paper, 104.00**
effect in general, 104.10
effect on holder in due course, 104.15
material alterations, 104.20
negligence contributing to alteration, 104.25
what constitutes alteration, 104.05
- Alternative Mortgage Transactions Parity Act, 21.15**
- Americans with Disabilities Act, 5.90, 35.55**
- Annunzio-Wylie Act, 38A.20, 38A.60**
- Anticipatory breach of international letters of credit, 34B.27**
- Anticybersquatting Consumer Protection Act, 40.95**
- Anti-Injunction Statute, 21.15**

[References are to sections.]

Antitrust violations, 40.80
Antitying violations, 30.25, 40.65
Appointment, powers of, 72.00
 general power, 72.05
 special power, 72.10
 testamentary power, 72.15
Arbitration, 10.35, 38.20
Article 3, Uniform Commercial Code. See
 Commercial paper
Article 4, Uniform Commercial Code. See
 Bank deposits and collections
Article 4A, 17.20, 40.01
Article 5, Uniform Commercial Code. See
 Letters of credit
Article 8, Uniform Commercial Code. See
 Securities
Article 9, Uniform Commercial Code. See
 Secured transactions
Assignee and holder of commercial paper,
93.15
 defenses against, 96.05
Assignee liability, 38.40
Assignees of consumer credit contracts,
38.35
Assignment of
 commercial paper, 92.00
 by act of parties, 92.05
 by operation of law, 92.10
 letters of credit, 172.05
Assuming banks, assets and liabilities of,
23.16
Attachment, 19.80
Attorney fees
 duties of executor, 59.15
 jeopardy assessment, 38A.25
 lien, 183.42
 liquidation, 41.40
 participating loans, 14.36
 privacy of bank records, 38A.25
 reasonableness, 10.05
 reorganization, 41.40
 Right to Financial Privacy Act, 38A.25
Attorneys
 bank attorney, 40.95
Auditor liability, 10.05
Authority of
 government employees, 23.56
 officers, 5.05
Automated Clearing House transactions,
17.12

Automated Teller Machines (ATMs),
17.25, 21.15, 24.05, 24.10
Automatic stay, 41.25
Avoidance of transfers
 Chapter 13 transfers, 50B.13
 fraudulent transfers by trustee, 46.15
 government receiver, to, 46.16
 preferential transfers by trustee, 46.20,
 47.40

B

Bail bond transactions, TILA not
applicable, 38.05
Bank collections. See Bank deposits and
collections
Bank crimes, 40.00
 antitying violations, 40.65
 bribery, 40.37
 conspiracy, 40.50
 conversion, 40.10
 currency transaction violations, 38A.57
 embezzlement, 40.15
 false statement, 40.70
 forgery, 40.25
 fraud, 40.35
 larceny, 40.36
 libel and slander, 38A.40
 misapplication of funds, 40.20
 RICO Act, 40.40
 undue influence, 40.45
Bank deposits and collections
 applicability and conflicts of law, 131.00
 Article 4 prevails over Article 3, 131.05
 governing law in international
 transactions, 131.10
 chargeback or refund, right to, 146.00
 collection of documentary drafts
 notice of dishonor, 161.00
 presentment, 160.00
 definitions, 133.00
 depository bank as agent for collection,
 136.00
 duty of ordinary care, 137.05
 effect of restrictive indorsements, 139.00
 final payment, 147.00
 holder in due course, depository bank as,
 143.00
 insolvency, effect of on collecting
 banks, 148.00
 interbank indorsements, 140.00

[References are to sections.]

- payor banks
 charges to customer's account, 152.00
 customer's duty to discover fraud,
 159.00
 death or incompetence of drawer,
 158.00
 deferred posting, 149.00
 late return of items by, 150.00
 liability for wrongful dishonor, 153.00
 stale checks, 157.00
 presentment by notice, 144.00
 process of posting, 135.00
 private agreements and rules of
 construction, 132.00
 responsibilities of collecting bank, 137.00
 security interest of collecting banks, 142.00
 settlement by remittance, 145.00
 stop payment, 151.00
 customer's right to stop payment,
 154.05
 stopping payment on bank obligations,
 155.00
 wrongful payment over a stop order,
 156.00
 supplying missing indorsement, 138.00
 time limits of item processing by bank,
 134.00
 warranties of customer and collecting
 bank, 141.00
- Bank drafts, 74.10**
- Bank holding companies. See Holding companies**
- Bank Holding Company Act, 21.05**
- Bank Insurance Fund, 23.80**
- Bank negligence of and fictitious payees, 103.20**
- Bank powers**
 doing business in foreign state, 9.25
 insurance business, 9.15
 practicing law, 9.10
 purchasing and holding stock in other
 corporations, 9.35
- Bank records, privacy of, 38A.00**
 confidentiality of bank records, 38A.35
 constitutional protection of depositors,
 38A.10
 customer's right of action, 38A.20,
 38A.25
 director and officer records, 38A.30
 Gramm-Leach-Bliley Act, 38A.40
 in general, 38A.05
 legal process to examine, 38A.15
- Bank**
 definition, 21.05
 savings, right to engage in business, 1.05
- Bank Secrecy Act, 38A.55**
 currency transaction and suspicious
 activity reports, 38A.58
 currency transaction violations, 38A.57
 in general, 38A.56
 USA PATRIOT Act, 38A.59
- Bank Service Corporation Act, 9.35**
- Bank stockholders, right to inspect books, 3.15**
 rights of national bank stockholders, 3.20
- Banking day defined, 133.05**
- Banking regulation. See Regulation**
- Bankruptcy. See Debt adjustment for individuals with regular income; Liquidation; Plan; Reorganization**
- Bankruptcy estate. See Liquidation; Reorganization; Trustee in bankruptcy**
- Bearer instruments, 84.15**
- Bills of sale, secured transactions, 177.15**
- Biometrics, 38A.100**
- Books**
 failure to keep and liquidation, 44.15
 inspection by stockholders, 3.15
- Branches**
 establishing, 21.30
- Breach of contract, 10.05, 14.10, 40.06**
- Breach of fiduciary duty and bank crimes, 40.30**
- Breach of warranty**
 damages, warranties of customer and
 collecting bank, 141.25
- Bribery, 40.37**
- Bridge banks, assets and liabilities of, 23.16, 23.60**
- Broker, loan, 10.05**
-
- C
-
- Cashier**
- Cashier's checks, 75.10**
 settlement by remittance, 145.05
 stopping payment, 155.10
- Certificate of compliance, 38A.48**
- Certificate of title, 180.05, 180.10, 180.15, 182.20, 184.65**
- Certificates, 1.05**

[References are to sections.]

- Certificates of deposit, 76.00**
 - in general, 76.05
 - right of setoff, 76.10
 - securities law not applicable, 24A.05
- Certification of checks, 109.00**
 - forged or unauthorized certification, 109.25
 - by mistake, 109.30
 - overdraft check, 109.40
 - requirements of certification, 109.05
 - stopped check, 109.35
- Certified checks, 75.15**
 - stopping payment, 155.05
- Change**
 - of name, 1.20
- Chapter 11. See Reorganization.**
- Chapter 13. See Debt adjustments for individuals with regular income**
- Chapter 12. See Debt adjustments for individuals with regular income**
- Charge-back**
 - bank liability, 40.06
 - right of, 146.00
- Charters, 1.05**
- Chattel paper, 179.30**
- Check 21 Act, 40.100**
- Check Clearing for the 21st Century Act. See Check 21 Act**
- Checking account, NOW, 18.00**
- Check kiting, 40.55, 149.15**
- Checks. See Commercial paper**
 - distinguished from drafts, 74.20
 - distinguished from notes, 73.25
 - preauthorized checks, 75.55
 - stale, 157.05
 - telechecks, 75.55
- Children's Online Privacy Protection Act, 38A.90**
- Chinese wall, 40.04**
- Choice of law, 10.40, 33A.05**
- Citizenship of bank, 21.50**
- Civil Rights Act, 5.85, 36.10**
- Claims against bankruptcy estate, 43.00**
 - administrative expenses, 43.10
 - landlord's claims, 43.05
 - nonpriority unsecured claims, 43.20
 - right of setoff, 43.30
 - right to jury trial, 43.45
 - secured claims, 43.15
 - subordination of, 43.35
 - taxes, 43.25
 - termination damages, 43.27
 - transferred claims, 43.35
 - unmatured interest, 43.27
- Class gifts, 65.10**
- Clause, interest, 15.05**
- Clearinghouses**
 - rules, 150.45
- Coercion, 10.15**
- Collateral. See Secured transactions**
- Collecting bank defined, 133.30**
- Collection**
 - See also* Bank deposits and collections
 - Fair Debt Collection Practices Act, 35.35
- Collective bargaining agreements, trustee's right to reject, 48.10**
- Commercial paper**
 - adverse claims to, 99.00
 - amount and form of payment, 82.00
 - payable in money, 82.10
 - sum certain, 82.05
 - assignment of commercial paper, 92.00
 - by act of parties, 92.05
 - by operation of law, 92.10
 - certificates of deposit, 76.00
 - in general, 76.05
 - right of setoff, 76.10
 - checks, 75.00
 - cashier's checks, 75.10
 - certified checks, 75.15
 - in general, 75.05
 - government, negotiation of, 91.35
 - money orders, 75.25
 - negotiable orders of withdrawal, 75.45
 - traveler's checks, 75.20
 - construction of negotiable instruments, 88.00
 - ambiguous terms, 88.20
 - discrepancies between words and figures, 88.15
 - other writings affecting instruments, 88.25
 - payable through bank, 88.30
 - payable to two or more persons, 88.05
 - payable with words of description, 88.10
 - consumer protection legislation, 100.00
 - defenses, 98.00
 - duress, 98.20
 - forgery, 98.10

[References are to sections.]

- fraud, 98.05
- incapacity, 98.25
- material alteration, 98.30
- defenses, limited, not available against holder in due course, 97.00
 - conditional or specified purpose delivery, 97.25
 - fraud in inducement, 97.15
 - lack or failure of consideration, 97.10
 - nondelivery of instrument, 97.20
 - ordinary contract defenses, 97.05
 - theft, 97.35
- discharge. *See* Discharge of commercial paper
- dishonor. *See* Dishonor
- drafts or bills of exchange, 74.00
 - bank drafts, 74.10
 - distinction between drafts and checks, 74.20
 - drafts in general, 74.05
 - trade acceptances, 74.15
- effect of provisions for additional powers of benefits, 85.00
 - acceleration, 85.05
 - confession of judgment, 85.10
- encoding error, 40.01, 150.05
- holder in due course, 94.00, 94.05
 - bank, 94.07
 - excluded transactions, 94.10
 - government receiver, 94.06
 - holder through a holder in due course, 94.25
 - participating transferee, 94.15
 - payee as, 94.30
 - proof of status, 94.20
 - requirements, 95.00, 95.30
- holders, 93.00
 - assignees, 93.15
 - defenses against, 96.00
 - defense against assignee, 96.05
 - in general, 93.05
 - instrument not in holder's name, 93.20
 - ordinary holders, 93.10
- immaterial provisions, 86.00
 - dating, antedating, and postdating, 86.10
 - recital of consideration, 86.05
- incomplete instruments, 87.00
 - in general, 87.05
 - unauthorized completion, 87.15
 - valid and authorized completion, 87.10
- indorsement, 90.00
 - bank, 90.60
 - blank, 90.10
 - correction of name by, 90.55
 - forged and unauthorized, 90.50
 - in general, 90.05
 - irregular, 90.45
 - missing, 90.65
 - qualified, 90.25
 - restrictive, 90.30
 - special, 90.20
- liability of the parties
 - acceptor, 108.00
 - accommodation party, 112.00
 - alteration, 104.00
 - certification of checks, 109.00
 - consideration as a defense, 105.00
 - conversion of negotiable instruments, 116.00, 116.05, 116.10
 - drafts not an assignment of funds, 106.00
 - drawer, 115.00
 - fictitious payee-imposter rule, 103.00, 103.55
 - finality of payment or acceptance, 115.00
 - guaranties, special, 113.21
 - guarantor, 113.00
 - indorser, 111.00
 - maker, 107.00
 - signature requirement, 101.00
 - unauthorized indorsement, 102.00
 - warranties or presentment and transfer, 114.00
 - midnight deadline. *See* Midnight deadline
- necessity for writing, 79.00
- negotiability, 78.00
- negotiation, 91.00
 - agent or officer as payee, 92.10
 - of bearer paper, 91.30
 - of government checks, 91.35
 - lost paper, 91.45
 - missing indorsement, 91.25
 - multiple payees and indorsers, 91.15
 - order paper or bearer paper, 91.10
 - subject to constructive trust, 91.50

[References are to sections.]

- transfer of undorsed order paper, 91.40
- nonnegotiable instruments, 89.00
 - effect upon holder for value, 89.20
 - in general, 89.05
 - rights of assignee, 89.25
 - savings account, 89.10
 - stipulations destroying negotiability, 89.35
 - technical nonnegotiable instruments, 89.30
- parties, 77.00
 - accommodation party, 77.40
 - bearer, 77.20
 - holder, 77.25
 - indorser, 77.15
 - maker, 77.05
 - payee, 77.10
- presentment. *See* Presentment
- promise or order that is unconditional, 81.00
- promissory notes, 73.00
 - accommodation paper, 73.20
 - joint notes, 73.15
 - judgment notes, 73.10
 - notes distinguished from checks, 73.25
 - notes in general, 73.05
- signature requirement, 80.00
 - ambiguous capacity, 80.10
 - facsimile signature, 80.15
 - proof of signature, 80.20
 - signature by agent, 80.25
- time of payment, 83.00
 - acceleration clauses, 83.15
 - extension clauses, 83.20
 - on demand, 83.05
 - upon specified event, 83.25
 - within a definite time, 83.10
- variation by agreement, 132.00, 146.05
- words of negotiability, 84.00
 - bearer instruments, 84.15
 - order instruments, 84.10
- writing, necessity of, 79.00
- parol evidence, 79.05
- Compensation**
 - of officers, 5.60
- Compound interest, 15.35**
- Computation of interest, 15.10**
- Computer Fraud and Abuse Act, 38A.80**
- Concealment of property, liquidation, 44.05**
- Confession of judgment, 85.10**
- Confidentiality, see Bank records, privacy of**
- Confirmation of plan, 49.00, 50A.03**
 - acceptance method, 49.05
 - “hanging” paragraph, 49.05
- Confirming bank, 164.10**
 - liability of, 167.05
- Conflict of federal and state law, 21.30, 24.11**
- Conflict of laws, and real estate laws**
 - interest, 15.40
 - usury, 39.70
- Consideration as defense, commercial paper, 105.00**
 - antecedent obligation, 105.15
 - presumption, 105.20
 - proving consideration, 105.25
 - want or failure of consideration, 105.10
 - what constitutes consideration, 105.05
- Conspiracy and bank crimes, 40.50**
- Constitutional protection, privacy of bank records, 38A.10**
- Constitutionality, regulatory laws, 24.10**
- Construction liens, 183.43**
- Construction of negotiability instruments, 88.00**
 - ambiguous terms, 88.20
 - discrepancies between words and figures, 88.15
 - other writings affecting instruments, 88.25
 - payable through bank, 88.30
 - payable to two or more persons, 88.05
- Constructive trust, negotiation subject to, 91.50**
- Consumer credit**
 - Fair Debt Collection Practices Act, 35.35
 - state laws, 35.05
- Consumer Leasing Act, 35.30**
- Consumer paper, holder in due course, 95.55**
- Consumer protection legislation and commercial paper, 100.00**
- Contesting of will. See Wills**
- Continuing financial crimes enterprise status, 40.85**
- Contract**

[References are to sections.]

modification of, 10.05, 47A.55, 198.00
waiver of provisions, 10.05, 47A.55,
198.00

Contractual liability of maker of paper, 107.05

Contractual obligations, 10.00, 10.05
breach of contract, 10.05, 14.10
economic duress, 10.15
good faith, 10.10
illegality, 10.05

Conversion
bank crimes, 40.10
to chapter 7 case, 52.05
of funds disbursed by negotiable
instruments or wire transfers, 202.00
garnishment of third-party funds, 40.10
of negotiable instruments, 116.00-116.15
secured transactions, lender liability,
185.55

Copyright, 179.25, 182.15
See also Trademarks

**Corporations, purchase of stock in and
banking powers, 9.40**
right to plead usury, 39.55

Counterfeiting, 40.61

Covenant not to compete, 5.97

Cramdown, 49.06, 49.15, 49.20, 50A.06

Credit cards
debt, 45.10
disclosure requirements, 21.15, 38.12
liability, 38.25
securitization, 35.05
state laws, 35.05

Credit, letter of. *See* Letters of credit

Creditors
See also Liquidation

Credit statement, false, 14.20

Credit unions, 32.00
fraud by officer, 32.16
NCUA regulation, 32.06
NCUAB, actions and proceedings, 32.07
state credit unions, 32.18
state regulation, 32.08

Crimes. *See* Bank crimes

Criminal forfeiture, 40.61

Criminal liability
of officers, 5.15

Cross-collateral clause, 14.45

Currency Transaction Reports, 38A.58

Currency transaction violations, 38A.57

Customer defined, 133.10

D

Damages

breach of warranty of customer and
collecting bank, 141.25
emotional distress, 10.05
punitive, 10.05
Truth-In-Lending Act, 38.30

Death

of drawer of draft, effect of, 106.10
or incompetence of drawer and bank
payments, 158.00
claims and deceased person's account,
158.15

**Debt adjustment for individuals with
regular income**

automatic stay, 50.15
avoidance of transfers, 50B.10
claims against the bankruptcy estate,
50B.00
taxes, 50B.05
conversion of case, 52.00
to chapter 7, 52.05
eligibility for chapter 13 relief and
proceedings, 50.00
eligibility for chapter 12 relief, 51.00
in general, 51.05
the plan, 51.10
the plan, modification of, 51.15
exemptions, 50.15
good faith, 50.10
in general, 50.05
interest, preconfirmation and
postconfirmation, 50A.10
nondischargeable debts, 50C.00
alimony, maintenance, and support,
50C.05
plan, 50A.00
mortgage, modification of, 50A.05
postconfirmation modification, 50A.15

**Debt collection under Fair Debt
Collection Practices Act, 35.35, 40.10**

Debts. *See* Liquidation

Deed of trust, *see* Real estate loans

Defamation, 38A.40

**Default and secured transactions. *See*
Secured Transactions**

Defenses and commercial paper, 98.00
duress, 98.20

[References are to sections.]

- forgery, 98.10
 - fraud, 98.05
 - incapacity, 98.25
 - limited defenses not available against
 - holder in due course, 97.00
 - conditional or specified purpose
 - delivery, 97.25
 - fraud in inducement, 97.15
 - lack or failure of consideration, 97.10
 - nondelivery of instrument, 97.20
 - ordinary contract defenses, 97.05
 - theft, 97.35
 - material alteration, 98.30
 - Deferred posting, 149.05, 149.15**
 - Definition, “bank,” 21.05**
 - Deposits**
 - insurance on, 23.10
 - interest, 15.20
 - pledge, 182.15
 - Depository Institutions Deregulation and Monetary Control Act, 21.15**
 - Derivatives, 14.40**
 - Directors**
 - advances to bank, 4.35
 - compensation, 4.30
 - duties of, 4.10
 - trustee in bankruptcy bringing action, 46.02
 - insurance claims, 5.70
 - liability of, 4.40
 - false statements, 4.60
 - mismanagement, 4.50
 - Disabilities, 5.90**
 - Discharge of commercial paper**
 - of all parties, 130.00
 - by cancellation, 126.00
 - effect on holder in due course, 129.00
 - other methods of discharge, 128.00, 128.10
 - by payment of satisfaction, 125.00, 128.50
 - by renunciation, 127.00
 - Discharge of officers, 5.65**
 - Disclosure and Truth-in-Lending-Act, 38.10**
 - Discounts. See Loans**
 - Discrimination, 5.65, 5.67, 5.75, 5.85, 36.05, 36.10**
 - age of customer, 35.05
 - employees applying for positions, 5.85
 - hostile treatment of customer, 36.10
 - Native American Indian lending, 35.05
 - Dishonor, 121.00**
 - bank’s liability for wrongful dishonor, 153.00
 - notice of, 122.00, 161.00
 - proof of, 123.00
 - protest of dishonor, 124.00
 - what constitutes, 121.05
 - Disposition of real property, 11.00, 11.05**
 - Diversity jurisdiction, 21.50, 21.55**
 - Dividends, 2.50**
 - Documentary draft, 164.05**
 - Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010**
 - preemption of state law, 21.15
 - protecting Tenants at Foreclosure Act, amendment of, 204.00
 - D’Oench, Duhme doctrine, 23.45**
 - Doing business in foreign state, bank powers, 9.25**
 - Double presentment, 150.15**
 - Dragnet clauses, 181.45**
 - Draft or bills of exchange, 74.00**
 - not an assignment of funds, 106.00
 - effect of death of drawer, 106.10
 - Drawer, liability of, 110.00**
 - in general, 110.05
 - Driving while intoxicated, debts arising from and liquidation, 45.40**
 - Dummy payee, 103.15**
 - Duress, 10.15**
 - Duress, defense of and commercial paper, 97.30, 98.20**
 - Duties of directors, 4.10**
 - Duties of executors. See Executors and administrators**
 - Duty of fair dealing, breach of, 40.03**
 - Duty to report criminal or suspicious behavior, 38A.05, 40.35**
-
- E**
- Earmarking doctrine, 46.20**
 - ECOA. See Equal Credit Opportunity Act**
 - Economic duress, 10.15**
 - Electronic Communications Privacy Act, 38A.95**
 - Electronic funds transfer, 17.00, 17.05**

[References are to sections.]

- Electronic Funds Transfer Act, 17.05,
17.15
erroneous transfers, 17.10
liability under federal statutes, 17.15
liability under UCC Article 4A, 17.20
- Embezzlement, 40.15**
- Emergency Economic Stabilization Act, 10.05, 198.00**
- Employees. See Officers**
- Employment discrimination, 5.65, 5.67, 5.75, 5.85**
- Encoding error, 40.01, 150.05**
- Environmental Liability, 40A.00**
lender/secured creditor liability, 40A.05
- Equal Credit Opportunity Act (ECOA), 36.05**
waiver of claims, 36.05
- Equal Pay Act, 5.85**
- Equitable interests**
property of bankruptcy estate, 42.30
- Equity Incentive Plan, 4.40**
- ERISA, 5.60, 40.30, 42A.05**
- Escheat, 2.06**
- Escheat of abandoned securities, 2.06**
- Establishing branches, national banks, 21.30**
- Estoppel, from asserting deficits in letters of credit, 170.10**
- Estoppel, judicial, 102.10**
- Excessive or improper loans, 14.15**
- Excused delay, 150.10**
- Executory contracts, debtor's right to assume or reject, 48.05**
- Exemptions to Chapter 13 relief, 50.15**
- Exhaustion of administrative remedies, 22.06, 23.56**
- Exhaustion of administrative remedies under FIRREA, 23.56**
- Expedited Funds Availability Act, 35.10**
- Export controls and regulations, international letters of credit, 34B.06**
- Extension clauses, 83.20**
-
- F**
-
- FACT Act, 37.05**
- Facsimile signature, 90.50**
- Failure to keep books and records, liquidation, 44.15**
- Fair Credit Billing Act, 38.05**
- Fair Credit and Charge Card Disclosure Act, 35.20**
- Fair Credit Reporting Act, 37.00**
consumer reports, 37.15
FACT Act, 37.05
in general, 37.05
liability for inaccurate information, 37.10
state statutes, 37.05
- Fair Debt Collection Practices Act, 35.35**
- Fair Housing Act, 5.35, 36.10**
- Fair Lending, 36.05, 36.10**
- Fair Labor Standards Act, 5.95**
- False Claims Act, 40.96**
- False credit statement, 14.20**
- False representations, liquidation, 44.10**
- False statements**
liability of directors, 4.60
loan applicants making to financial institution or FDIC, 40.70
- Family and Medical Leave Act, 5.80**
- Farm credit banks, 27.10**
- Federal Deposit Insurance Corporation, 23.00, 23.05**
Bank Insurance Fund, 23.80
deposit liability, 23.75
D'Oench, Duhme doctrine, 23.45
enforcement of contracts, 23.56
insurance on deposits, 23.10
liquidation, 23.21
purchase and assumption agreements, 23.16
receiver, powers and defenses, 23.40
receivership, closed bank, 23.25
receivership, insolvent bank, 23.30
repudiation of contracts, 23.55
Savings Association Insurance Fund, 23.80
sovereign immunity, 23.65
- Federal Home Loan Banks, 26A.00**
generally, 26A.05
- Federal Income Tax and Other Tax Issues, 9.40**
- Federal land bank, 27.00**
farm credit banks, 27.10
- Federal preemption of state laws, and usury, 39.75**
- Federal Reserve Act Section 23A**
- Federal Reserve Banks, 22.00**
administrative proceedings, 22.06
federal reserve board, powers of, 22.05

[References are to sections.]

- Federal savings and loan associations, 26.15**
- Federal Tort Claims Act, 5.85, 23.40**
- Federal Trade Commission holder rule, 14.10**
- Fees**
See also Attorney fees
 sweep fees, 21.06
- Fictitious payee, 103.00**
- Fiduciary duty, breach of**
 actual knowledge requirement, 132.15
 bank crimes and, 40.30, 68.55
 officers of insolvent corporation, 14.37
- Finality of payment, 115.00**
- Final payment, 147.00**
- Financial privacy. *See* Bank records**
- Firm offer (of credit or insurance), 37.05**
- FIRREA, 23.40, 23.55, 26.17**
 exhaustion of administrative remedies, 23.56
- Flood insurance, 190.00**
- Foreclosure**
 reasonableness of sale, 191.00, 205.00
 wrongful foreclosure, 197.00
- Foreign branches of domestic banks, 33.00, 33.05**
- Foreign borrowers, 34.15**
- Foreign currency**
 item payable in, 146.20
- Foreign letters of credit. *See* Letters of credit**
- Foreign judgments, enforceability, 33A.10**
- Foreign-owned banking corporations, 34.00, 34.05**
- Foreign Sovereign Immunities Act, 34A.05**
- Foreign state, doing business in and banking powers, 9.25**
- Forfeiture, 40.61**
- Forgery**
 bank crimes, 40.25
 defense of and commercial paper, 98.10
- Forum non conveniens, 33A.05**
- Forum selection, 10.40, 33A.05**
- Fraud**
 civil actions against banks, 40.35
 civil actions by banks, 40.38
 commercial paper, 97.15, 98.05, 98.40
 credit unions, 32.16
 criminal actions against banks or bank employees, 40.37
 customer's duty to discover and report, 159.00, 159.05
 inducing transfer and sale of stock, 2.30,
 intent to harm, 44.05
 nondischargeable debt, 45.10
 securities, 24A.15
- Fraudulent transfers or concealment of property, 44.05, 46.20**
- Freedom of Information Act, 38A.70**
- Funds availability, 149.15**
- Funds transfer**
 electronic, 17.00, 17.05
 erroneous transfers, 17.10
- Future Advance Clauses, 14.45**
- Future interests**
 appointment, powers of, 72.00
 general power, 72.05
 special power, 72.10
 testamentary power, 72.15
 remainder interests, 71.00
 condition subsequent, 71.20
 contingent remainder, 71.15
 indefeasibly vested remainder, 71.05
 vested remainder subject to total divestment, 71.10
-
- G**
- Garnishment, 19.80**
- Generation-skipping tax exemption, 66.15**
- Good faith requirement**
 breach, 40.03
 holder in due course, 95.30
- Goodwill and trade secrets, liquidation, 42.10**
- Government agreements and FIRREA, 26.17**
- Government checks, negotiation of, 91.35**
- Gramm-Leach-Bliley Act, 38A.75**
- Guarantees**
 enforcement, 14.12
 nondischargeable debts, 45.35
- Guarantor**
 of commercial paper, liability of, 113.00
 absolute guaranty, 113.20
 coguarantor, 113.15
 extension or renewal of credit, 113.10
 mutual mistake, 113.25
 relation between bank and, 14.11

*[References are to sections.]***H****HAMP modification, 198.00****Holder of commercial paper, 93.00***See also* Ignorance and holder in due course

assignees, 93.15

defenses against, 96.00, 98.40

against assignee, 96.05

in due course, 77.35, 94.00, 94.05

 defenses against. *See* Defenses and commercial paper

depository banks and value, 95.15

effect of discharge, 129.05

excluded transactions, 94.10

in general, 93.05

holder through a holder in due course, 94.25

instrument not in holder's name, 93.20

notice requirement, 95.45, 95.50

ordinary holders, 93.10

participating transferee, 94.15

payee as, 94.30

proof of status, 94.20

requirements of, 95.00, 95.30

taking for value, 95.05

for value, 77.30

Holder in due course

Federal Trade Commission holder rule, 14.10

payee of loan payoff check, 94.07

Holding and purchasing stock, banking powers, 9.40**Holding companies, bank, 30.00, 30.05**

acquisition of banks, 30.10

nonbanking activities, 30.15

tying arrangements, 30.25

Home Equity Loan Consumer Protection Act, 35.15**Home Mortgage Disclosure Act. *See* 36.10****Home Ownership Equity Protection Act (see Truth-in-Lending), 38.45****Home Owners Loan Act, 21.15****Homestead exemption, 42.25****I****Identity theft, 38A.85****Ignorance and holder in due course**

of defenses and adverse claims, 95.40

that paper is overdue or dishonored, 95.35

Impersonation and commercial paper, 103.10**Impossibility of performance, 14.05****Incapacity, commercial paper defense, 98.25****Incomplete instruments, 87.00**

in general, 87.05

unauthorized completion, 87.15

valid and authorized completion, 87.10

Indian, American native, lending, 35.05**Indenture trustee, 67.50****Individual Retirement Accounts, 42.20, 42A.06****Indorsement**

of commercial paper, 90.00

bank indorsement, 90.60

blank indorsement, 90.10

correction of name by indorsement, 90.55

forged and unauthorized indorsement, 90.50

in general, 90.05

irregular indorsement, 90.45

missing indorsement, 90.65

qualified indorsement, 90.25

restrictive indorsement, 90.30

special indorsement, 90.20

unauthorized, 102.00

liability of bank, 102.15

Indorser, liability of, 111.00

in general, 111.05

order of liability, 111.15

without recourse, 111.10

Inheritance taxes, 65.55**Injunctions, enjoining payment of letters of credit, 121.05, 171.05****Insolvency***See also* Liquidation

effect on collecting bank, 148.05

Inspection of books

right of shareholders, 3.15

Installment sale, 178.10**Insurance***See also* Federal Deposit Insurance Corporation

banking powers, 9.15

business risk, 5.70

loss payees, 10.05

officers and directors, 5.70

special bonds, 5.70

[References are to sections.]

Insurance drafts, stopping payment, 155.30
Intentional interference with business relations, 40.50
Interbank
 agreements, 150.20
 indorsements, 140.05
Interest, 15.00
 in advance and usury, 39.20
 computation, 15.10
 conflict of laws, 15.40
 construction and validity of clause, 15.05
 on deposits, 15.20
 on premiums, 39.05
 postpetition, 47.21
 right to recover interest paid in advance, 15.15
 when payable, 15.30
Internal Revenue Service Summons, 38A.05, 38A.20
 third-party summons, 38A.62
International banking
 claims against foreign banks, 33C.05
 comity, 34B.40
 conflicts of law, 33A.00
 choice of law doctrine, 33A.05
 personal jurisdiction, 33C.10
 sovereign immunity, 34A.00
 Foreign Sovereign Immunities Act, 34A.05
 subject matter jurisdiction, 33C.05
International letters of credit. See Letters of credit
Inter vivos trust, 67.05
Investment securities. See Securities
IRS third-party summons, 38A.63

J

Jeopardy assessment, 38A.25
Joint and several liability of comakers, 107.20
Joint deposits, 20.00, 20.05
Judicial estoppel, 102.10
Judgment notes, 73.10
Judgments, enforceability, 33A.10
Jurisdiction
 diversity jurisdiction, 21.50, 21.55
 international letters of credit, 34B.05, 34B.35
 liquidation, 41.30

personal jurisdiction, 33C.10, 34B.05
 probate court, 60.30
 procedural issues, 21.50, 33C.05, 33C.10, 34B.05
 reorganization, 47.10
 subject matter jurisdiction, 33C.05
Jurisdiction—International banks, 34.05, 34B.05
Jury trial, right to, claims against bankruptcy estate, 43.45
Jury trial, waiver, 10.15

K

Kinds of commercial paper. See Commercial paper
Know your customer policies, 38A.58

L

Landlord, claim by against bankruptcy estate, 43.05
Lanham Act, 40.95
Lapse doctrine and wills, 65.45
Larceny, 40.36
Late charges, 21.05, 24.11, 39.10
Late return of items by payor bank, 150.00
Law, practicing and banking powers, 9.10
Lender liability, 40.30, 40.35, 40A.05, 40A.15, 40B.00, 43.35
Letters of credit
 assignability, 172.05
 conflicts of law, 162.10
 conforming bank defined, 164.10
 conspicuous requirement, 162.05
 defined
 irrevocable, 164.15
 revocable, 164.15
 documentary draft defined, 164.05
 documents in compliance, 170.00
 estoppel from asserting defects, 170.10
 strict compliance, 170.05
 enjoining payment, 171.00
 injunctions allowed, 171.05
 injunctions allowed where underlying transaction fraudulent, 171.15
 injunctions disallowed, 171.20
 equitable subrogation, 162.20
 foreign contract law, applied, 34B.11

[References are to sections.]

- honoring the letter of credit, 169.00, 169.10
 - condition of letter, 169.10
- delivery, 169.40
 - issuer's duty to honor, 169.05
 - remedies for wrongful dishonor and anticipatory repudiation, 169.35
 - wrongful dishonor, 169.25
 - wrongful honor, 169.20
- international, 34B.00
 - anticipatory breach, 34B.27
 - arbitration, 34B.20
 - compliance with terms of the credit, 34B.26
 - conflicts of law, 34B.10
 - enjoining payment under the letter injunction granted due to fraud, 34B.30
 - export controls and regulations, 34B.06
 - foreign contract law, applicability, 34B.11
 - honoring the letter of credit, 34B.25
 - injunction denied, 34B.35
 - jurisdiction, 34B.05
 - reformation actions, 34B.16
 - uniform customs and practice, 34B.15
- issuer's obligations to its customers, 168.00
- liability of confirming bank, 167.05
- modification of letter, 166.00
 - consent of beneficiary required, 166.00
- required elements, 165.05
- scope of Article 5, 162.00
- security interest, 46.20
- standby letter of credit, 163.05
- transfer and assignment, 172.00
- uniform customs and practices, 162.15
- what constitutes, 162.05
- wrongful dishonor, 169.00
- Liability of bank for acts**
 - of officers, 5.35, 5.40
- Liability**
 - bank's failure to understand instructions, 34B.26
 - of consumers, 35.25
 - closing cost markups, 35.36
 - credit cards, 38.25
 - of lenders, 40B.00, 40.30, 40A.05, 40A.15
 - of officers, 5.10, 5.35, 14.37, 36.10
 - criminal liability, 5.15
 - trusts, 70A.00
 - transferee liability, 70A.05
- Libel and slander, 38A.40**
- Licenses, 1.05**
- Liens, 183.00, 193.00, 197.00**
- Liquidation**
 - claims against bankruptcy estate, 43.00
 - administrative expenses, 43.10
 - banks with claims subordinate to other creditors, 43.17
 - commingled funds, 43.20
 - contingent claims, 43.36
 - landlord's claims, 43.05
 - liens, 43.26
 - nonpriority unsecured claims, 43.20
 - right of setoff, 43.30
 - right to jury trial, 43.45
 - secured claims, 43.15
 - secured claims of banks with priority, 43.16
 - subordination of, 43.35
 - taxes, 43.25
 - transferred claims, 43.35
- discharge injunction, 41.25
- grounds for denial of discharge, 44.00
 - failure to keep books and records, 44.15
 - false representations, 44.10
 - fraudulent transfers or concealment of property, 44.05
- national banks, 21.45
- nondischargeable debts, 45.00
 - alimony, maintenance, and support, 45.25
 - debts incurred by fraud, 45.10
 - from driving while intoxicated, 45.40
 - guarantees, 45.35
 - reaffirmation of debt, 45.50
 - student loans, 45.30
- powers of trustee, 46.00
 - abandonment of property, 46.25
 - avoidance of fraudulent transfers, 46.15
 - avoidance of preferential transfers, 46.20
 - as hypothetical lien creditor, 46.10
 - protector of the public interest, 46.01
 - standing of debtor, 41.30

[References are to sections.]

turnover of property, 46.05
 proceedings, 41.00
 attorney fees, 41.40
 automatic stay, 41.25
 creditors permitted to file involuntary
 petitions, 41.10
 dismissal of case, 41.45
 documents to be filed by debtor in
 voluntary proceeding, 41.20
 government receiver actions, 41.26
 grounds for involuntary petition, 41.15
 jurisdiction, 41.30
 parties permitted to file voluntarily,
 41.05
 venue requirements, 41.35
 property included in bankruptcy estate,
 42.00
 equitable interests, 42.30
 goodwill and trade secrets, 42.10
 homestead exemption, 42.25
 judgment in favor of debtor, 42.05
 retirement benefits, 42.20, 68.20
 property not included in bankruptcy
 estate, 42A.00
 Individual Retirement Accounts,
 42A.06
 interest in ERISA plan, 42A.05
 tenancy by the entirety account,
 42A.10
 unmatured interest, 43.27
Loan broker, 10.05
Loan finder, 10.05
Loans
 See also Real estate loans
 bank's stock as security, 2.41
 interpretation, 10.05
 other loans and discounts, 14.00
 enforcement of guaranty, 14.12
 liability of parties, 14.05
 participating loans, 14.35
 relation with borrower, 14.10
 relation with guarantor, 14.11
 usurious. *See* Usury
Loss payees, 10.05
Lost
 commercial paper, 91.45
 will, 61.30

M

**Maintenance as nondischargeable debt,
 42.25**
Malpractice, 10.05, 202.00
Maritime attachment, 17.05
Maritime lien, 17.20, 183.42, 185.35
Mergers
 national banks, 21.70
 right of stockholders to object, 3.10
MERS Authority, 197.00
Midnight deadline
 deferred posting, 149.15
 defined, 133.15
 Expedited Funds Availability Act, 35.10
 responsibilities of collecting bank, 137.35
Misapplication of funds, 21.40, 40.20
Mismanagement, liability of directors, 4.50
Missing indorsement
 commercial paper, 91.25
 supplying, 138.00
**Modification of contract, 10.05, 47A.55,
 198.00**
**Modification of liens, bankruptcy. *See*
 Cramdown**
Monetary Control Act, 21.15
**Money laundering, 38A.55, 38A.56,
 38A.58, 38A.60, 40.98**
Money orders, 75.25
 stopping payment, 155.20
Mortgage banker licensing, 21.10
Mortgages
 See also Real estate loans
 secondary mortgage claim in bankruptcy,
 49.20
Multiple payees and indorsers, 91.15

N

NACHA, 17.12
Name, use and change of, 1.20
National Bank Act, 21.00
National banks, 21.00
 location, 21.50
 procedural issues, 21.50
 stockholders' rights, 3.20
**National Credit Union Administration.
See Credit unions**
National Security Letters, 38A.59
Negligence, 40.01

[References are to sections.]

- alteration of commercial paper, contributing to, 104.25
 - Negligent misrepresentation, 12.05, 40.01**
 - Negotiability**
 - See also* Commercial paper
 - agent or officer as payee, 91.20
 - of bearer paper, 91.30
 - of commercial paper, 78.00
 - of government checks, 91.35
 - lost paper, 91.45
 - missing indorsement, 91.25
 - multiple payees and indorsers, 91.15
 - nonnegotiable instruments, 89.00
 - order paper or bearer paper, 91.10
 - subject to constructive trust, 91.50
 - transfer or unindorsed order paper, 91.40
 - Nonbanking corporations, loans by, 14.25**
 - Nondischargeable, debts, 45.00**
 - from driving while intoxicated, 45.40
 - fraud, incurred by, 45.10
 - guarantees, 45.35
 - reaffirmation of debt, 45.50
 - state court judgement, arising from, 45.21
 - student loans, 45.30
 - unauthorized sale of collateral, 45.22
 - Nonnegotiable instruments, 89.00**
 - Notary fees, 35.05**
 - Notice**
 - of disclosure, 38A.51
 - of dishonor, 122.00, 161.00
 - requirement of holder in due course, 95.45
 - what does not constitute notice, 95.50
-
- O**
-
- Obligations, contractual, 10.00, 10.05**
 - Office of Federal Contract Compliance Programs, 5.85**
 - Office of the Comptroller of the Currency administrative powers, 21.56**
 - administrative remedies, 22.06
 - preemptive determinations, 21.15
 - Office of Thrift Supervision**
 - administrative remedies, 22.06
 - preemption, 21.15
 - Officers**
 - acts of officers or employees, 5.35
 - president, 5.40
 - authority
 - in general, 5.05
 - compensation, 5.60
 - criminal liability, 5.15
 - discharge, 5.65
 - former officers, actions against, 26.20
 - trustee in bankruptcy bringing action, 46.02
 - fringe benefits, 5.60
 - improper participation in bank transactions, 40.90
 - insurance claims, 5.70
 - liability in general, 5.10
 - national bank, dismissal, 21.60
 - resident
 - acts of, 5.40
 - personal liability, 5.30
 - sick days, 5.60
 - testimony of, 5.05
 - whistleblower protection, 5.66

Organization

- certificates, 1.05
- charters, 1.05
- licenses, 1.05
- right to engage in savings bank business, 1.05
- use and change of name, 1.20

- Overdrafts, 17.05, 37.10, 142.10, 149.20, 151.15, 152.20**
- fees, 152.20

P

-
- Paper. *See* Commercial paper**
 - Parol evidence, and commercial paper, 79.05**
 - Participating loans, 14.11, 14.35, 14.36**
 - Parties to commercial paper. *See* Commercial paper**
 - Patent infringement, 40.90, 40.95**
 - Payment, time of and negotiability of commercial paper, 83.00**
 - Payment "on delivery," 183.42**
 - Perishable Agricultural Commodities Act (PACA) trusts, 67.55**
 - Personal liability**
 - of president, 5.30
 - Plan, confirmation of, 49.00**
 - Plan, revocation of, 49.30**
 - Pledge, 182.15**
 - Police power, 24.10**
 - Polygraph examination, 5.65**
 - Postdated checks, 150.50**
 - Posting, 149.20, 151.15**

[References are to sections.]

Powers, banking

- doing business in foreign state, 9.25
- in general, 9.05, 9.05
- insurance business, 9.15
- issuance of credit cards, 9.30
- practicing law, 9.10
- purchasing and holding stock in other corporations, 9.40
- real estate business, 9.20

Powers of appointment, 72.00

- general, 72.05
- special, 72.10
- testamentary, 72.15

Practicing law, banking powers, 9.10**Preauthorized checks, 75.55****Predatory lending, 35.45, 201.00****Preemption of local ordinances, 21.15****Preemption of state laws, 9.15, 21.15, 39.75****Preferential transfers, 46.20, 47.40****Premises liability, 40.01****Prepayment penalties, 14.50, 21.15****Prescreening, 37.15****Presentment**

- for acceptance, 118.00
 - dishonor by nonacceptance, 118.05
- collection of documentary draft, 160.05
- necessity for, 137.15
- by notice, 144.00
- for payment, 117.00
 - in general, 117.05
 - manner, 117.15
 - place, 117.25
- when presentment must be made, 117.10
- of whom made, 117.20
- time of making, 119.00
- warranties, 114.00
- when waived or excused, 120.00
 - in general, 120.05
 - waiver, 120.10

President

- See also* Officers
- acts of, 5.40
- personal liability of, 5.30

Prime rate, 40.80**Priority of liens**

- See* Secured transactions

Privacy Act, 38A.70**Privacy of bank records. *See* Bank records****Probate. *See* Wills****Professional malpractice, 10.05, 202.00****Promise, unconditional and negotiability, 81.00****Property, real**

- acquisition and disposition, 11.00, 11.05

Proprietary rights, 40.95**Protecting Tenants at Foreclosure Act, 204.00****Protection of depositors, 38A.10****Provisional credits, 47.40, 142.05, 142.10, 142.15****Punitive damages, 40.10****Purchasing and holding stock, banking powers, 9.40**

- bank in its own shares, 2.40

Purpose loans, 14.30

Q

Qualifications**Qualified financial contracts, 23.55**

R

“Rabbi” trust, 66.15**Racketeer Influenced and Corrupt****Organizations (RICO) Act, 24A.10, 40.40**

- credit cards used for gambling, 17.30, 40.40
- securities, 24A.10

Ratification

- by bank of delay by depositor, 137.45
- unauthorized signature, 102.10

Reaffirmation of debt, nondischargeable, 45.50**Real estate loans**

- Community Reinvestment Act, 199.00
- due-on-sale clauses, 194.00
- escrow, 200.00
- foreclosure, 191.00
- improvements, 14.11
- in general, 190.00
- modification, 198.00
- mortgage
 - default, 197.00
 - defective recording, 43.16

[References are to sections.]

- modification of lien in reorganization
 - plan, 49.20
 - participation, 192.00
 - release of, 196.00
 - “strip down” protections, 50A.05
 - multi-family housing, 50A.05
 - prepayment penalties, 21.15
 - priority, 183.00, 183.45
 - securitization, 203.00
 - title certification and title insurance, 195.00
 - unrecorded mortgage, 193.00
 - Real Estate Settlement Procedures Act (RESPA), 35.36**
 - Real property, acquisition and disposition, 11.00, 11.05**
 - Receivership**
 - See also* Federal Deposit Insurance Corporation
 - avoidance of Ch. 7 transfers to government receiver, 46.16
 - of closed bank, 23.25
 - of insolvent bank, 23.30
 - Redemption, right to, 45.50**
 - Registration of securities, duty, 176.00**
 - authenticating trustee, transfer agent, or registrar, 176.05
 - issuer
 - as to adverse claims, 176.10
 - to register transfer, 176.05
 - Regulation**
 - dismissal of bank officer, 21.60
 - establishing branches, 21.30
 - liquidation, 21.45
 - OCC, administrative powers, 21.56
 - preemption of state laws, 21.15
 - procedural issues, 21.50
 - state’s power to regulate, 21.10
 - Regulation B. *See* Equal Credit Opportunity Act (ECOA)**
 - Regulation CC, 149.15**
 - Regulation J, 17.15**
 - Reimbursement of costs, 38A.52**
 - Relation between bank and borrower, 14.10**
 - Relation between bank and guarantor, 14.11**
 - Release, effect of, 10.05**
 - Remainder interests, 71.00**
 - condition subsequent, 71.20
 - contingent remainder, 71.15
 - indefeasibly vested remainder, 71.05
 - vested remainder subject to total divestment, 71.10
 - Reorganization**
 - cash collateral, 47.41
 - claims against bankruptcy estate, 47A.00
 - administrative expenses, 47A.10
 - class action claims, 47A.25
 - postconfirmation claims, 47A.30
 - subordination of claims, 47A.20
 - taxes, 47A.15
 - timely filing, 47A.05
 - unmatured interest, 43.27
 - confirmation of plan, 49.0
 - acceptance method, 49.05
 - conflict with state law, 49.10
 - “cram-down” provision—new value exception, 49.06, 49.15
 - modification of mortgage liens, 49.20
 - operation and effect, 49.15
 - postpetition interest, 49.07
 - purchased claims, 49.25
 - continued operation of debtor’s business, 48.00
 - cramdown, 50A.06
 - lapsed security interest in intangibles, 184.45
 - postpetition claims, 47A.50
 - postpetition interest, 47.21
 - proceedings, 47.00
 - appointment of trustee, 47.30
 - avoidance of transfers, 47.40
 - denial of discharge, 47.45
 - dismissal, 47.15
 - eligibility, 47.05
 - interest, 47.21
 - jurisdiction, 47.10
 - powers and duties of trustee or debtor-in-possession, 47.35
 - stay, 47.25
 - valuation of claims, 47.20
- Replevin, 40.10**
- Repossession, 47A.55, 185.20, 185.30**
- Rescission, 38.15**
- Resolution Trust Corporation**
 - liquidation assets, 23.21
- Resulting trust, 67.45**
- Retention, undue**
 - and branch bank, 150.35

[References are to sections.]

by depository bank, 150.30
Retirement benefits, bankruptcy estate, 42.20
Retirement plans, trustee's liability, 68.20, 68.60
Return
 late of items by payor bank, 150.00
 responsibility of collecting bank, 137.30
Reverse stock split, 2.55
Revocable trust, 67.15
Revocation
 of approval, 1.30
 of will, 61.00
RICO. See Racketeer Influenced and Corrupt Organizations Act
Right to cancel notice, 38.15
Right to Financial Privacy Act, 38A.45
 certificate of compliance, 38A.48
 coverage, 38A.47
 in general, 38A.46
 limited disclosures regarding suspected illegal activity, 38A.49
Robosigners, 193.00
RTC. See Resolution Trust Corporation
Rule against perpetuities, 70.10

S

Safe deposit box, 10.05
Sale, commercially reasonable, 185.30
Savings accounts, nonnegotiable instruments, 89.10
Savings and loan associations, 26.00
 administrative proceedings against, 26.06
 agreements superseded by FIRREA, 26.17
 in general, 26.05
Savings Association Insurance Fund, 23.80
Savings associations, 25.00
Secured claims in bankruptcy, 43.15
Secured creditor versus bank, 183.42
Secured transactions
 agricultural supplies, 179.05
 Article 9, scope of, 178.05
 bill of sale, 177.15
 collateral covered, 179.00
 accounts, 179.05
 copyrights, 182.15
 deposit accounts, 182.15
 diminution of value, 185.10
 fixtures, 179.10
 goods, 179.15
 intangibles, 179.25
 inventory, 179.35
 money as "goods," 179.20
 pledge, 182.15
 replacement cost, 50A.06
 conditional sale, 177.05
 construction liens, 183.43
 default, 185.00
 acceleration of payment of debt, 185.25
 bank's right of setoff, 185.15
 commercial reasonableness of foreclosure sale, in general, 185.30
 creditors liability for conversion, 185.55
 creditors right to deficiency judgment, 185.50
 disposition of foreclosure sale proceeds, 185.45
 events of default, 185.05
 lender liability for conversion, 185.55
 place of foreclosure sale, 185.40
 purchaser's liability for conversion, 185.56
 reasonable notice of sale, 185.35
 remedies
 contractual, 185.10
 self-help, 185.20
 state law, 185.60
 strict foreclosure, 185.46
 financing statement, 181.35
 governing law, 180.00
 state transfers, 180.10
 installment sale disguised as lease, 178.10
 inventory, 179.35
 lapsed security interest in intangibles, 184.45
 perfection by filing, 184.00
 assignment of security interest, 184.60
 certificate of title, 182.20
 continuation of security interest in identifiable proceeds from collection, 184.50
 filing under trade name, 184.20
 minor errors in financing statement; substantial notice of security interest, 184.30
 necessary filing of financing statement, 184.05

[References are to sections.]

- sales of collateral authorized by
 - secured party, 184.55
 - stock, security interest in, 175.30
 - substantial errors in financing statement, 184.31
- pre-Code security devices, 177.00
- priority rules, 183.00
 - federal tax lien versus purchase money security interest, 183.51
 - first-to-file rule, 183.05
 - perfected security interest prevails over unperfected security interest, 183.15
 - secured creditor versus artisan's lien creditor, 183.41
 - secured creditor versus buyer in the ordinary course of business, 183.25
 - secured creditor versus judgment lien creditor, 183.35
 - ship mortgage, 14.10, 182.15, 183.35, 183.42, 185.30
 - state lien creditor versus secured creditor, 183.46
 - state tax lien versus federal lien, 183.50
 - what constitutes a purchase money security interest, 183.60
- termination statement, 184.80
- trust receipt, 177.10
- validity of security agreement, 181.00
 - adequate description of collateral, 181.15
 - after-acquired property covered, 181.25
 - debtor's rights in the collateral, 181.20
 - dragnet clauses, 181.45
 - future advances covered, 181.30
 - what constitutes a security agreement, 181.06
 - what constitutes security interest, 181.05
 - writing requirement, 181.10
- ways to perfect, 182.00
 - perfection outside the UCC, 182.15
 - upon attachment, 182.10
 - by taking possession, 182.05
- Securities Act, violations, 40.04**
- Securities, general matters, 173.00**
 - issuer's lien noted on, 173.10
 - issuer's restriction on transfer, 174.05
 - negotiable securities, 173.15
 - perfection of security interest and termination of interests, 175.30
 - registration, duty, 176.00
 - of authenticating trustee, transfer agent, or registrar, 176.05
 - of issuer to register transfer, 176.05
 - of issuer as to adverse claims, 176.10
 - transfer, 175.00
 - action based upon wrongful transfer, 175.25
 - bank as bona fide purchaser, 175.05
 - banks warranties of presentment and transfer, 175.20
 - notice to bank of adverse claims, 175.10
 - unauthorized signature on issue, 174.10
 - what constitutes, 173.05
- Securities regulation, 24A.00**
 - abandoned securities, escheat, 2.06
 - fraud, 24A.15
 - RICO claims, 24A.10
 - securities defined, 24A.05
- Securitizations, 35.05, 203.00**
- Security breach statute, 38A.105**
- Security interest, generally, see Chapter 32**
 - collecting bank's, 142.00
 - letters of credit and, 46.20
 - transfer of, 46.20
- Seizure of proceeds from improperly indorsed check, 107.25**
- Self-help repossession, 185.20**
- Service mark, see Trademarks**
- Servicemembers Civil Relief Act, 35.60**
- Services, investment, 12.00**
- Settlement by remittance, 145.00**
- Sexual harassment, 5.75**
- Ship mortgage. See Secured transactions**
- Signature requirement**
 - by facsimile, 90.50
 - for commercial paper, 80.00
 - ambiguous capacity, 80.10, 101.10
 - authorized representative, 101.15
 - facsimile signature, 80.15
 - liability of the parties, 101.00
 - proof of signature, 80.20
 - signature by agent, 80.25
 - for letter of credit, 165.05
 - ratification of unauthorized signature, 102.10
- Simultaneous death clauses, 65.05**

[References are to sections.]

- Slander, 38A.40**
- Social security, 10.05, 17.05, 19.80, 21.15**
- Soldiers and Sailors Civil Relief Act, *see***
Servicemembers Civil Relief Act
- Special deposits**
defined, 133.40
- Special needs trusts, 67.60**
- Spendthrift trust, 67.30**
- Stale checks, 157.05**
- Standard of care, 159.30**
- Standby letter of credit, 163.05**
- Standing to contest will, 62.05**
- State, foreign, doing business in and**
banking powers, 9.25
- State credit unions, 32.18**
- State laws**
consumer credit, 35.05
credit unions, 32.08
financial privacy, 38A.65
mini-Fair Credit Reporting Acts, 38A.66
preemption, 21.15
secured transactions, 180.00
- State regulation of banking, 24.00, 24.05**
conflict with federal laws and
regulations, 21.30, 24.11
constitutionality of laws, 24.10
- Statute of limitations, 38.05, 38.35**
customer's duty to discover and report
fraud, 159.50
truth-in-lending, 38.15, 38.35
- Stock**
See also Stockholders
incentive plan, 5.65
loan security, as, 2.41
purchasing and holding, bank powers, 9.40
right of bank to purchase own shares, 2.40
security interest in, perfection and
termination, 175.30
transfer and sale, 2.25
fraud, induced by, 2.30
valuation of stock, 2.55
- Stockholders**
rights
inspect books, 3.15
of national bank stockholders, 3.20
transfer not recorded, 3.50
- Stop payments**
on bank obligations, 155.00
customer's right to order, 154.05
when subject to, 151.05
- Strip downs, 49.15, 49.20, 50A.06**
- Strip offs, 49.15, 49.20, 50A.06**
- Structure**
certificates, 1.05
charters, 1.05
licenses, 1.05
right to engage in savings bank business,
1.05
use and change of name, 1.20
- Student Loans**
generally, 14.37
nondischargeable debts, 45.30
- Subordination of claims against**
bankruptcy estate, 43.35, 47A.20
- Subpoena, 21.56**
- Subpoena, Grand Jury, 38A.50**
- Subprime mortgage crisis fallout, 40.38,**
201.00
- Supervision**
dismissal of bank officer, 21.60
establishing branches, 21.30
liquidation, 21.45
misapplication of funds, 21.40
preemption of state laws, 21.15
procedural issues, 21.50
state's power to regulate, 21.10
trust accounts, 21.06
- Surety. *See* Insurance, business risk; *also***
***see* Guarantor**
- Surrender, 45.50**
- Suspicious Activity Reports, 38A.58**
- Swaps, 14.40**
- Sweep fees, 21.06**
-
- T**
-
- Tax claims against bankruptcy estate, 43.25**
- Taxes**
foreign tax credits, 34.10
generally, 9.40
income, 9.40
- Telechecks, 75.55**
- Telemarketing, 38A.80**
marketing of advance fee credit cards,
35.45
- Teller's checks, 75.50**
stopping payment, 155.35
- Tenancy by the entirety, 190.00**
- Theft, defense of and commercial paper,**
97.35
- TILA. *See* Truth-In-Lending Act**

[References are to sections.]

- Title, certificate of, 180.05, 180.10, 180.15, 184.65**
- Torts, 40.00**
- antitrust violations, 40.80
 - breach of fiduciary duty, 40.30
 - continuing financial crimes enterprise statute, 40.85
 - conversion, 40.10
 - forfeiture, 40.61
 - improper participation in bank transactions, 40.90
 - intentional infliction of emotional distress, 40.02
 - negligence, 40.01
- Totten trust, 67.35**
- Trademarks, 40.95**
- Trade secrets, 40.95, 42.10**
- Transfer**
- commercial paper. *See* Commercial paper
 - funds, electronic, 17.00, 17.05
 - letters of credit, 172.00
 - and sale of stock, 2.25
 - fraud, induced by, 2.30
 - not recorded, 3.50
 - securities, 175.00
- Transferred claims against bankruptcy estate, 43.40**
- Traveler's checks, 75.20**
- stopping payment, 155.25
- Trespass, 185.20**
- Trover, 185.20**
- Trustee in bankruptcy**
- abandonment of property, 46.25
 - avoidance of fraudulent transfers, 46.15
 - avoidance of preferential transfers, 46.20
 - avoidance of transfers to government receiver, 46.16
 - or debtor-in-possession in liquidations, 46.00
 - former directors and officers, proceedings against, 46.02
 - as hypothetical lien creditor, 46.10
 - strong arm power, 46.10
 - turnover of property, 46.05
- Trusts**
- formal requisites, 66.00
 - construction of provisions, 66.15
 - delivery, 66.05
 - intention to create, 66.10
 - invalid, 70.00
 - as illusory transfers, 70.20
 - invalid purposes, 70.05
 - precatory language, 70.15
 - rule against perpetuities, 70.10
 - liability, 70A.00
 - transferee liability, 70A.05
 - modification and termination, 69.00
 - modification of terms with consent of all beneficiaries, 69.05
 - termination of trust purpose, 69.15
 - national banks, 21.06
 - powers and duties of trustee, 68.00
 - allocation of assets, 68.35
 - designation of trustee, 68.40
 - exculpation of trustee, 68.45
 - indenture, 67.50
 - in general, 68.05
 - invasion of trust corpus, 68.10
 - liability of trustee, 68.55
 - periodic accountings, 68.20
 - prudent investment, 68.25
 - rescission, 68.05
 - retirement plans, 68.60
 - successor trustee, 68.50
 - types, 67.00
 - charitable, 67.25
 - constructive, 67.40
 - indenture, 67.50
 - inter vivos, 67.05
 - Perishable Agricultural Commodities Act (PACA), 67.55
 - resulting, 67.45
 - revocable, 67.15
 - special needs, 67.60
 - spendthrift, 67.30
 - totten, 67.35
- Trust funds**
- for employees, 23.55
- Truth-in-Lending Act, 38.00**
- attorney fees awards, 38.30
 - bail bond transactions not covered by, 38.05
 - class action, 38.05
 - constitutionality, 38.05
 - credit card liability, 38.25
 - disclosure, 38.10
 - in general, 38.05
 - penalties and court action, 38.20
 - rescission, 38.15
 - damages, 38.30

[References are to sections.]

notice of obligation between the parties,
38.10
timeliness of claims, 38.05
Truth-in-Savings Act, 35.50
Tying arrangements
bank holding companies, 30.25

U

**Unauthorized indorsements, 102.00,
102.15**
Unauthorized practice of law, 9.10, 40.95
**Unconditional promise or order,
negotiability, 81.00**
effect of conditions, 81.10
effect of references to other documents,
81.15
Unconscionability, 10.05, 35.05, 35.45
Undue influence, 40.45
contesting of will, 62.30
Undue retention. See Retention, undue
Unfair trade practice, 10.40, 40.95
Uniform Commercial Code
Article 3. *See also* Commercial paper
Article 4. *See also* Bank deposits and
collections
Article 4A, 17.20, 40.01
Article 5. *See also* Letters of credit
Article 8. *See also* Securities
Article 9. *See also* Secured transactions
Uniform customs and practice, 162.15
Uniform Fiduciaries Law, 35.40
Uniform Fraudulent Transfer Act, 42.25
**Uniformed Services Employment
and Reemployment Rights Act
(USERRA), 5.85**
Unjust enrichment, 40.97
**Unlawful Internet Gambling
Enforcement Act, 40.101**
Unsafe and unsound banking, 40.98
Unsigned check, payment of, 101.20
USA PATRIOT Act, 38A.59, 40.61
See also Bank Secrecy Act
Use of name, 1.20
Usury, 39.00
commission, bonus, and expenses, 39.25
computing on 360-day basis, 39.15
conflicts of laws, 39.70
contract with bank customer sets “past
due” fees, 39.10
defense of,

guarantor using, 39.45
against holder in due course, 39.50
between original parties, 39.40
federal preemption of state law, 39.75
interest in advance, 39.20
laws, effect on credit unions, 32.10
loan extended or renewed, 39.30
loans by national banks, 39.35
penalties for, 39.60
right of corporation to plead, 39.55
state laws not applicable, 39.65
transactions held not usurious, 39.10
what constitutes, 39.05, 39.10

V

Valuation of stock, 2.55
**Variation of UCC by agreement, 132.00,
146.05**
Venue requirements, liquidation, 41.35
**Vessels. See Secured transactions, ship
mortgage**
Vicarious liability, 40.15

W

**Waiver of contract provisions, 10.05,
47A.55, 198.00**
**Waivers and Age Discrimination in
Employment Act, 5.65**
WARN Act, 5.65
**Warranties of customer and collecting
bank, 141.00**
damages for breach of warranty, 141.25
**Warranties on presentment and transfer,
114.00**
in general, 114.05
qualified indorser’s, 114.15
unqualified indorser’s, 114.10
Whistleblower protection, 5.66
Wills
remainder interests, 71.00
condition subsequent, 71.20
contingent remainder, 71.15
indefeasibly vested remainder, 71.05
vested remainder subject to total
divestment, 71.10
Wire transfer fraud, 40.35
Wire transfers, 17.20
conditional instructions, 17.20
Words of negotiability, 84.00

[References are to sections.]

bearer instruments, 84.14

in general, 84.05

order instruments, 84.10

Wrongful death. *See* Negligence, 40.01

Wrongful dishonor. *See* Letters of
credit—Dishonor

Wrongful foreclosure, 197.00

INDEX
[References are to sections.]

Index-24