

# 2016 Texas Banking Law Manual

Independent Bankers Association of Texas

Shannon Phillips, Editor

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**PLEASE READ BEFORE USING THIS MANUAL:** IBAT can't guarantee that the IBAT Texas Banking Law Manual has a link to every law a Texas banker will ever need, but we are confident that the laws we link to are those that most often affect Texas banking. **Please be aware that the statutes on the Texas Legislature Online website are not immediately updated after a legislative session.** In fact, it can take months for it to be updated. Currently, the statutes available on the Legislature's website are current through the 3rd Called Session of the 84th Legislature, June 2015. The Texas Constitution is current through the amendments approved by voters in November 2015. IBAT's White Paper: [The 2015 Legislative Session: Legislature in Transition](#) and its [free 84<sup>th</sup> Legislature Recap Webinar](#) can help you determine if a change was made. If you have questions and are an IBAT member, contact IBAT Deputy General Counsel Shannon Phillips at [sphillips@ibat.org](mailto:sphillips@ibat.org) or 512.474.6889.

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[Abandoned Account](#) – See [Unclaimed Property](#)

[Assumed Name](#)

- [Business and Commerce Code Chapter 71](#)
  - Subchapter A. General Provisions; [§71.001 et seq.](#)
  - Subchapter B. Requirements Applicable to Certain Unincorporated Persons, [§71.051 et seq.](#)
  - Subchapter C. Requirements Applicable to Incorporated Business or Profession and Certain Other Entities; [§71.101 et seq.](#)
  - Subchapter D. General Provisions Regarding Assumed Name Certificate; [§71.151 et seq.](#)
  - Subchapter E. Penalties; [§71.201 et seq.](#)

[ATM Safety](#)

- Safety at Unmanned Teller Machines: [Finance Code Chapter 59, Subchapter D \(59.301 et seq.\)](#)
- User Safety at Unmanned Teller Machine (Banks): [7 TAC §3.92](#)
- User Safety at Unmanned Teller Machine (State Savings and Loan Associations): [7 TAC §67.17](#)
- User Safety at Unmanned Teller Machine (State Savings Associations): [7 TAC §77.115](#)
- [IBAT ATM Safety Notice Form](#)

[Biometric Identifiers](#)

- Capture or Use of Biometric Identifier [Business and Commerce Code Chapter 503](#)

[Check Handling](#) – Sections in italics are most often used in community banking

- [Business & Commerce Code \(UCC\\*\) Chapter 3](#)
  - Subchapter A. General Provisions and Definitions
    - Short Title [UCC §3.101](#)
    - Subject Matter [UCC §3.102](#)
    - Definitions [UCC §3.103](#)
    - Negotiable Instrument [UCC §3.104](#)
    - Issue of Instrument [UCC §3.105](#)
    - Unconditional Promise or Order [UCC §3.106](#)
    - Instrument Payable In Foreign Money [UCC §3.107](#)
    - Payable on Demand or at Definite Time [UCC §3.108](#)
    - Payable to Bearer or to Order [UCC §3.109](#)
    - Indemnification of Person to Whom Instrument is Payable [UCC §3.110](#) (Negotiating a check payable to two or more persons is covered in §3.110(d))
    - Place of Payment [UCC §3.111](#)

- Interest [UCC §3.112](#)
- Date of Instrument [UCC §3.113](#)
- Contradictory Terms of Instrument: [UCC §3.114](#)
- Incomplete Instrument [UCC §3.115](#)
- Joint and Severable Liability; Contribution [UCC §3.116](#)
- Other Agreements Affecting Instrument [UCC §3.117](#)
- Statute of Limitations [UCC §3.118](#)
- Notice of Right to Defend Action [UCC §3.119](#)
- Subchapter B. Negotiation, Transfer, and Indorsement
  - Negotiation [UCC §3.201](#)
  - Negotiation Subject to Rescission [UCC §3.202](#)
  - Transfer of Instrument; Rights Acquired by Transfer [UCC §3.203](#)
  - Indorsement [UCC §3.204](#)
  - Special Indorsement; Blank Indorsement; Anomalous Indorsement [UCC §3.205](#)
  - Restrictive Indorsement [UCC §3.206](#)
  - Reacquisition [UCC §3.207](#)
- Subchapter C. Enforcement and Instruments
  - Person Entitled to Enforce Instrument [UCC §3.301](#)
  - Holder in Due Course [UCC §3.302](#)
  - Value and Consideration [UCC §3.303](#)
  - Overdue Instrument [UCC §3.304](#)
  - Defenses and Claims in Recoupment [UCC §3.305](#)
  - Claims to an Instrument [UCC §3.306](#)
  - Notice of Breach of Fiduciary Duty [UCC §3.307](#) (Bank liability for a self-dealing fiduciary)
  - Proof of Signatures and Status as Holder in Due Course [UCC §3.308](#)
  - Enforcement of Lost, Destroyed or Stolen Instrument [UCC §3.309](#)
  - Effect of Instrument on Obligation for Which Taken [UCC §3.310](#)
  - Accord and Satisfaction by Use of Instrument [UCC §3.311](#)
  - Lost, Destroyed, or Stolen Cashier's Check, Teller's Check, or Certified Check [UCC §3.312](#)
- Subchapter D. Liability of Parties
  - Signature: [UCC §3.401](#)
  - Signature by Representative [UCC §3.402](#)
  - Unauthorized Signature [UCC §3.403](#)
  - Imposters; Fictitious Payees [UCC §3.404](#)
  - Employer's Responsibility for Fraudulent Indorsement by Employee [UCC §3.405](#)
  - Negligence Contributing to Forged Signature or Alteration of Instrument [UCC §3.406](#)
  - Alteration: [UCC §3.407](#)
  - Drawee Not Liable on Unaccepted Draft [UCC §3.408](#)
  - Acceptance of Draft; Certified Check [UCC §3.409](#)
  - Acceptance of Varying Draft [UCC §3.410](#)
  - Refusal to Pay Cashier's Checks, Teller's Checks, and Certified Checks [UCC §3.411](#)
  - Obligation of Issuer of Note or Cashier's Check [UCC §3.412](#)
  - Obligation of Acceptor [UCC §3.413](#)
  - Obligation of Drawer [UCC §3.414](#)
  - Obligation of Indorser [UCC §3.415](#)
  - Transfer Warranties [UCC §3.416](#)
  - Presentment Warranties [UCC §3.417](#)
  - Payment or Acceptance by Mistake [UCC §3.418](#)
  - Instruments Signed for Accommodation [UCC §3.419](#)

- Conversion of Instrument [UCC §3.420](#)
  - Subchapter E. Dishonor
    - Presentment [UCC §3.501](#)
    - Dishonor [UCC §3.502](#)
    - Notice of Dishonor [UCC §3.503](#)
    - Excused Presentation and Notice of Dishonor [UCC §3.504](#)
    - Evidence of Dishonor [UCC §3.505](#)
    - Processing Fee by Holder of Payment Device [UCC §3.506](#)
    - Delivery Notification by Holder of Check or Similar Sight Order [UCC §3.507](#)
  - Subchapter F. Discharge and Payment
    - Discharge and Effect of Discharge [UCC §3.601](#)
    - Payment [UCC §3.602](#)
    - Tender of Payment [UCC §3.603](#)
    - Discharge by Cancellation or Renunciation [UCC §3.604](#)
    - Discharge of Secondary Obligors [UCC §3.605](#)
- [Business & Commerce Code \(UCC\\*\) Chapter 4](#)
  - Subchapter A. General Provisions and Definitions
    - Short Title [UCC §4.101](#)
    - Applicability [UCC §4.102](#)
    - Variation by Agreement; Measure of Damages; Action Constituting Ordinary Care [UCC §4.103](#)
    - Definition and Index of Definitions [UCC §4.104](#)
    - “Bank”; “Depository Bank”; “Collecting Bank”; “Payor Bank”; “Presenting Bank” [UCC §4.105](#)
    - Payable Through or Payable at Bank; Collecting Bank [UCC §4.106](#)
    - Time of Receipt of Items [UCC §4.107](#)
    - Time of Receipt of Items [UCC §4.108](#)
    - Delays [UCC §4.109](#)
    - Electronic Presentment [UCC §4.110](#)
    - Statute of Limitations [UCC §4.111](#)
    - Payment of Check at Par [UCC §4.112](#)
  - Subchapter B. Collection of Items; Depository and Collecting Banks
    - Status of Collecting Bank as Agent and Provisional Status of Credits; Applicability of Chapter; Item Indorsed “Pay Any Bank” [UCC §4.201](#)
    - Responsibility for Collection or Return; When Action Timely [UCC §4.202](#)
    - Effect of Instructions [UCC §4.203](#)
    - Methods of Sending and Presenting; Sending Directly to Payor Bank [UCC §4.204](#)
    - Depository Bank Holder of Unindorsed Item: [UCC §4.205](#)
    - Transfer Between Banks [UCC §4.206](#)
    - Transfer Warranties [UCC §4.207](#)
    - Presentment Warranties: [UCC §4.208](#)
    - Encoding and Retention Warranties: [UCC §4.209](#) (Liability for encoding incorrectly.)
    - Security Interest of Collecting Bank in Items; Accompanying Documents and Proceeds [UCC §4.210](#)
    - When Bank Gives Value for Purposes of Holder In Due Course [UCC §2.211](#)
    - Presentment Notice of Item Not Payable By, Through or At A Bank; Liability of Drawer or Indorser [UCC §4.212](#)
    - Medium and Time of Settlement by Bank [UCC §4.213](#)
    - Right of Charge-Back or Refund; Liability of Collecting Bank; Return Item [UCC §4.214](#)

- Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal [UCC §4.215](#)
  - Insolvency and Preference [UCC §4.216](#)
- Subchapter C. Collection of Items; Payor Banks
  - Deferred Posting; Recovery of Items; Time of Dishonor; Return of Items by Payor Bank [UCC §4.301](#)
  - Payor Bank’s Responsibility for Late Return of Item: [UCC §4.302](#)
  - When Items Subject to Notice, Stop Payment Order, Legal Process, or Setoff; Order in Which Items May be Charged or Certified [UCC §4.303](#)
- Subchapter D. Relationship Between Payor Bank and Its Customer
  - When Bank May Charge Customer’s Account: [UCC §4.401](#)
  - Bank’s Liability to Customer for Wrongful Dishonor [UCC §4.402](#)
  - Customer Right to Stop Payment; Burden of Proof of Loss [UCC §4.403](#)
  - Bank Not Obligated to Pay Check More Than Six Months Old: [UCC §4.404](#)
  - Death or Incompetence of Customer: [UCC §4.405](#)
  - Customer’s Duty to Discover and Report Unauthorized Signature or Alteration [UCC §4.406](#)
  - Payor Bank’s Right to Subrogation on Improper Payment [UCC §4.407](#)
- Subchapter E. Collection and Documentary Draft
  - Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor [UCC §4.501](#)
  - Presentment of “On Arrival” Drafts [UCC §4.502](#)
  - Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need [UCC §4.503](#)
  - Privilege of Presenting Bank to Deal with Goods; Security Interest for Expenses [UCC §4.504](#)
  -

\*UCC – Uniform Commercial Code (Texas’ version of the UCC is found in the Texas Business & Commerce Code (BCC). If, in your research, you don’t use the BCC, the version of the UCC you use may not include all Texas-specific changes.)

## Child Support

- Child Support Lien
  - Filing of Lien or Abstract; Notice to Obligor (Duty of financial institution upon receiving child support lien notice) [Family Code §157.314\(d\)](#)
  - Service on Financial Institution [Family Code §157.3145](#)
  - Property to Which Lien Attaches [Family Code 157.317\(a\)\(1\)-\(2\)](#)
  - Execution and Levy on Financial Assets of Obligor [Family Code §157.327](#)
  - Levy on Financial Institution Account of Deceased Obligor [Family Code §157.3271](#)
  - Notice of Levy Sent to Obligor [Family Code §157.328](#)
  - No Liability for Compliance With Notice of Levy [Family Code §157.329](#)
- Title IV-D Administrative Subpoena (No liability for disclosing financial information pursuant to this subpoena) [Family Code §231.303](#) (In Texas Title IV-D refers to the Texas Attorney General. See [Family Code §231.001](#))
- Financial Institution Data Match [Family Code §231.307](#)
- Service on Financial Institutions [Civil Practice and Remedies Code §17.028](#)

**NOTE:** We always recommend that you immediately turn over any civil or criminal process served on your bank to your attorney. Failure to comply with the rules of procedure can be costly.

## Claims Against Customers

- Attachment, Injunction, Execution, or Garnishment [Finance Code §59.007](#)

- Claims Against Customers of Financial Institutions [Finance Code §59.008](#)

## Closed Account Notification System – See [Victims of Identity Theft](#)

## Compliance Review Committee

- Compliance Review Committee: [Finance Code §59.009](#) (Actions taken or discussed in this committee can be disclosed to governmental agency and not be subject to discovery in civil actions.)

## Consumer Credit

- Regulation of Interest, Loans, and Financed Transactions
  - Interest Rates: [Finance Code Chapter 302](#)
  - Optional Rate Ceilings: [Finance Code Chapter 303](#)
  - Consumer Loans: [Finance Code Chapter 342](#)
    - Interest Charges on Non-Real Property Loans: [Chapter 342, Subchapter E](#)
      - Administrative Fee: [Finance Code §342.201\(f\) and \(g\)](#)
      - \$100 Administrative Fee authorized: [7 TAC §83.503](#)
    - Interest and Other Charges on Secondary Mortgage Loans: [Chapter 342, Subchapter G](#)
- Home Loans: [Finance Code Chapter 343](#)
- Retail Installment Sales: [Finance Code Chapter 345](#)
- Revolving Credit Accounts: [Finance Code Chapter 346](#)
- Manufactured Home Credit Transactions: [Finance Code Chapter 347](#)
- Motor Vehicle Installment Sales: [Finance Code Chapter 348](#)

## Convenience Accounts – See [Multiple-Party Accounts](#)

## Credit Card—Verifying Identity by Zip Code

- Use of Zip Code to Verify Customer’s Identity [Business and Commerce Code Chapter 505](#)
  - Definitions [§505.001](#)
  - Use of Zip Code to Verify Identity in Credit Card Transaction [§505.002](#)
  - Retention of Zip Code [§505.003](#)

Data Breach Notification – See Identity Theft Enforcement and Protection Act

## Deceptive Trade Practices

- Deceptive Trade Practices: [Business & Commerce Code Chapter 17](#) (Includes the *Bad Faith Claims of Patent Infringement* added in 2015 as [§§17.951 et. seq](#))

## Debt Collection

- Right of Set-Off: [Finance Code §34.307](#)
- Debt Collection: Finance Code Chapter 392
  - Subchapter A. General Provisions
    - Definitions [Finance Code §392.001](#)
  - Subchapter B. Surety Bond
    - Bond Requirement [Finance Code §392.101](#)
    - Claim Against Bond [Finance Code §392.102](#)
  - Subchapter C. Information in Files of Credit Bureau or Debt Collector
    - Report to Consumer [Finance Code §392.201](#)

- Correction of Third-Party Debt Collector's or Credit Bureau's Files [Finance Code §392.202](#)
- Subchapter D. Prohibited Debt Collection Methods
  - Threats of Coercion [Finance Code §392.301](#)
  - Harassment; Abuse [Finance Code §392.302](#)
  - Unfair or Unconscionable Means [Finance Code §392.303](#)
  - Fraudulent, Deceptive, or Misleading Representations [Finance Code §392.304](#)
  - Deceptive Use of Credit Bureau Name [Finance Code §392.305](#)
- Subchapter E. Defense, Criminal Penalty, and Civil Remedies
  - Bona Fide Error [Finance Code §392.401](#)
  - Criminal Penalty [Finance Code §392.402](#)
  - Civil Remedies [Finance Code §392.403](#)
  - Remedies Under Other Law [Finance Code §392.404](#)

## Deposit Accounts

- Amendment of Deposit Contracts: [Finance Code §34.302](#) (Applies to consumer and commercial accounts)
- Fees; Disclosures: [Finance Code §34.303](#)
- Minor Accounts: [Finance Code §34.305](#)

## Discovery of Customer Records

- Discovery of Customer Records: [Finance Code §59.006](#)

## Dormant Account – See [Unclaimed Property](#)

## Fiduciary Management of Securities

- [Property Code Chapter 161](#)
  - Subchapter A. General Provisions ([§161.001 et seq.](#))
  - Subchapter B. Custodian of Securities ([§161.021 et seq.](#))
  - Subchapter C. Deposit of Security with Federal Reserve Bank or Clearing Corporation ([§161.051 et seq.](#))

## Escheat– See [Unclaimed Property](#)

## Elder Abuse

- Human Resources Code, Chapter 48
  - Subchapter B. Reports of Abuse, Neglect, or Exploitation; Immunity
    - Report [§48.051](#)
    - Failure to Report; Penalty [§48.052](#)
    - False Report; Penalty [§48.053](#)
    - Immunity [§48.054](#)
  - Subchapter C. Confidentiality
    - Confidentiality and Disclosure of Information; Agency Exchange of Information [§48.101](#)
  - Subchapter D. Investigations by all Agencies [§48.154](#)

## Franchise Tax

- [Tax Code Chapter 171](#)
  - Subchapter A. Definitions; Tax Imposed ([§171.0001 et seq.](#))
  - Subchapter B. Exemptions ([§171.0051 et seq.](#))
  - Subchapter C. Determination of Taxable Margin; Allocation and Apportionment ([§171.101 et seq.](#))

- [Payment of Tax \(§171.151 et seq.\)](#)
- [Subchapter E. Reports and Records \(§171.201 et seq.\)](#)
- [Subchapter F. Forfeiture of Corporate and Business Privileges \(§171.251 et seq.\)](#)
- [Subchapter G. Forfeiture of Charter or Certificate of Authority \(§171.301 et seq.\)](#)
- [Subchapter H. Enforcement \(§171.351 et seq.\)](#)
- [Subchapter I. Disposition of Revenue \(§171.401 et seq.\)](#)
- [Subchapter J. Refunds \(§171.501 et seq.\)](#)
- [Subchapter L. Tax Credit for Clean Energy Project \(§171.601 et seq.\)](#)
- [Subchapter M. Tax Credit for Certain Research and Development Activities \(§171.651 et seq.\)](#)
- [Subchapter S. Tax Credit for Certified Rehabilitation of Certified Historic Structures \(§171.901 et seq.\)](#)

## Fraud (Criminal)

- [Penal Code Chapter 32](#)
  - [Subchapter A. General Provisions \(§32.01 et seq.\)](#)
  - [Subchapter B. Forgery \(§32.21 et seq.\)](#)
  - [Subchapter C. Credit \(§32.31 et seq.\)](#)
  - [Subchapter D. Other Deceptive Practices \(§32.41 et seq.\)](#)

## Funds Transfers

- [Business & Commerce Code Chapter 4A](#)
  - [Subchapter A. Subject Matter and Definitions \(§4A.101 et seq.\)](#)
  - [Subchapter B. Issue and Acceptance of Payment Order \(§4A.201 et seq.\)](#)
  - [Subchapter C. Execution of Senders Payment Order by Receiving Bank \(§4A.301 et seq.\)](#)
  - [Subchapter D. Payment \(§4A.401 et seq.\)](#)
  - [Subchapter E. Miscellaneous Provisions \(§4A.501 et seq.\)](#)

## Garnishment

- Financial Institution as Garnishee [Civil Practice and Remedies Code §63.008](#) (This section merely provides that service of writ of garnishment on a financial institution is governed by [Finance Code §59.008.](#))

## Home equity lending

- [Texas Constitution, Article XVI, Section 50\(a\)\(6\)](#)
- Home Equity Rules: [7 TAC Chapter 153](#)
- Home Equity Rules: [7 TAC Chapter 153](#) (Searchable PDF version on IBAT website. PDF reader required)
- [Official Spanish Disclosure](#)

## Homestead

- [Property Code Chapter 41](#)
  - [Interests in Land Exempt from Seizure: §41.001](#)
  - [Definition of Homestead: §41.002](#)
  - [Temporary Renting of Homestead: §41.003](#)
  - [Abandonment of Homestead: §41.004](#)
  - [Voluntary Designation of Homestead: §41.005](#)
  - [Certain Sales of Homestead: §41.006](#)
  - [Home Improvement Contract: §41.007](#)
  - [Conflict with Federal Law: §41.008](#)

- Notice to Designate: [§41.021](#)
- Notice by Homestead Claimant: [§41.022](#)
- Designation by Commissioner: [§41.023](#)
- Sale of Excess: [§41.024](#)
- [Texas Constitution, Article XVI, Section 50\(a\)\(6\)](#)
- [7 TAC Chapter 153](#) – Rules Interpreting the Constitution
- [7 TAC Chapter 151](#) – Adopting Interpretations of the Constitution

## Identity Theft Enforcement and Protection Act – Notification of Data Breach – See [§521.053](#)

- [Business & Commerce Code Chapter 521](#)
  - Subchapter A. General Provisions
    - Short Title [§521.001](#)
    - Definitions [§521.002](#)
  - Subchapter B. Identity Theft
    - Unauthorized Use of Possession of Personal Identifying Information [§521.051](#)
    - Duty to protect sensitive personal information: [§521.052](#)
    - Required notification of breach of computerized data: [UCC §521.053](#)
  - Subchapter C. Court Order Declaring Individual a Victim of Identity Theft
    - Application for Court Order to Declare Individual a Victim of Identity Theft [§521.101](#)
    - Presumption of Applicant’s Status as Victim [§521.102](#)
    - Issuance of Order; Contents [§521.103](#)
    - Confidentiality of Order [§521.104](#)
  - Subchapter D. Remedies
    - Civil Penalty; Injunction [UCC §521.151](#)
    - Deceptive Trade Practice [§521.152](#)

## Imaging documents

- Uniform Electronic Transfers Act: [Business & Commerce Code Chapter 322](#)

## Inactive Accounts – See [Unclaimed Property](#)

## Insurance

- Prohibited Practices Relating to Property Insurance: [Insurance Code Chapter 549](#)
- Unfair Methods of Competition and Unfair Practices by Financial Institutions: [Insurance Code Chapter 556](#)
- Insured Property Subject to Security Interest: [Insurance Code Chapter 557](#)
- Financing of Insurance Premiums: [Insurance Code Chapter 651](#)
- Specialty Agents [Insurance Code Chapter 4055](#)
- Regulation of Interest; Penalties and Remedies: [Finance Code Chapter 305](#)

## Interest Rates

- [Finance Code Chapter 302](#)
  - Contracting for, Charging, or Receiving Interest or Time Price Differential; Usurious Interest: [§302.001](#)
  - Accrual of Interest when No Rate Specified: [§302.002](#)
  - Determining Rates of Interest by Spreading: [§302.101](#)
  - Prohibition on Prepayment Penalty: [§302.102](#)
  - Effect of Federal Preemption on Late Charge: [§302.103](#)
  - Loan to Purchase Interest in entity with Foreign Real Property as Principal Asset: [§302.104](#)

- Commercial Transactions: [Finance Code Chapter 306](#)

## Interest on Lawyers' Trust Account (IOLTA)

- [A Lawyer's Guide to Client Trust Accounts](#)
- [Texas Access to Justice Foundation](#)

## Joint Accounts – See [Multiple-Party Accounts](#)

## Lending Limits

- Lending Limits: [Finance Code §34.201](#)
- Violation of Lending Limit: [Finance Code §34.202](#)
- [7 TAC Chapter 12](#)
- [Department of Banking Legal Opinions](#) (Scroll down to Section VI.)

## Loans, Secured Transactions

- [Business & Commerce Code. Chapter 9.](#)
  - Security Agreement: [Subchapter B \(§9.201 et seq.\)](#)
  - Perfection and Priority: [Subchapter C \(§9.301 et seq.\)](#)
  - Rights of Third Parties: [Subchapter D \(§9.401 et seq.\)](#)
  - Filing: [Subchapter E \(§9.501 et seq.\)](#)
  - Default: [Subchapter F \(§9.601 et seq.\)](#)
    - Application of Proceeds of Disposition: [Business & Commerce Code §9.615](#)
    - Calculation of Surplus or Deficiency: [Business & Commerce Code §9.616](#)

## Minors' Accounts

- Deposit Account of Minor: [Finance Code §34.305](#)
- Texas Uniform Transfers to Minors Act: [Property Code Chapter 141:](#)
  - Short Title: [§141.001](#)
  - Definitions in This Chapter: [§141.002](#)
  - Scope and Jurisdiction: [§141.003](#)
  - Nomination of Custodian: [§141.004](#)
  - Transfer by Gift or Exercise of Power of Appointment: [§141.005](#)
  - Transfer Authorized by Will or Trust: [§141.006](#)
  - Other Transfer by Fiduciary: [§141.007](#)
  - Transfer by Obligor: [§141.008](#)
  - Receipt for Custodial Property: [§141.009](#)
  - Manner of Creating Custodial Property and Effecting Transfer; Designation of Initial Custodian; Control: [§141.010](#)
    - This section contains a form for TUTMA accounts
  - Single Custodian: [§141.011](#)
  - Validity and Effect of Transfer: [§141.012](#)
  - Care of Custodial Property: [§141.013](#)
  - Powers of Custodian: [§141.014](#)
  - Use of Custodial Property: [§141.015](#)
  - Custodian's Expenses, Compensation, and Bond: [§141.016](#)

- Exemption of Third Person from Liability: [§141.017](#)
- Liability to Third Person: [§141.018](#)
- Renunciation, Resignation, Death, or Removal of Custodian; Designation of Successor Custodian: [§141.019](#)
- Accounting by and Determination of Liability: [§141.020](#)
- Termination of Custodianship: [§141.021](#)
- Applicability: [§141.022](#)
- Effect on Existing Custodianships: [§141.023](#)
- Uniformity of Application and Construction: [§141.024](#)
- Additional Transfers to Custodianships in Existence Before Effective Date of Act: [§141.025](#)

## Multiple-Party Accounts (POD, Convenience, Joint, Right of Survivorship, and Trust Accounts)

- [Estates Code Chapter 113](#)
  - General Provisions: [Subchapter A \(§113.001 et seq.\)](#)
  - Uniform Account Form: [Subchapter B \(§113.051 et seq.\)](#)
  - Ownership and Operation of Accounts: [Subchapter C \(§113.101 et seq.\)](#)
  - Right of Survivorship in Accounts: [Subchapter D \(§113.151 et seq.\)](#) (Section 113.053 dictates the proper use of the disclosure form. In 2015, SB 1791 caused much confusion. IBAT presented a [free webinar](#) and posted an [FAQ](#) on its website.)
  - Protection of Financial Institution: [Subchapter E \(§113.201 et seq.\)](#)
  - Rights of Creditors; Pledge of Account: [Subchapter F \(§113.251 et seq.\)](#)

## Personal Property Exempt from Creditors' Claims

- [Property Code Chapter 42](#)
  - Personal Property Exemption: [§42.001](#)
  - Personal Property: [§42.002](#)
  - Additional Exemption for Certain Savings Plans: [§42.0021](#)
  - Exemption for College Savings Plans: [§42.0022](#)
  - Designation of Exempt Property: [§42.003](#)
  - Transfer of Nonexempt Property: [§42.004](#)
  - Child Support Liens: [§42.005](#)

POD (Payable on Death) Accounts – See [Multiple Party Accounts](#)

## Political Contributions: Restrictions on Contributions and Expenditures

- [Election Code Chapter 253](#)
  - [Subchapter D. Corporations and Labor Organizations](#)
  - [Subchapter E. Civil Liability](#)

## Power of Attorney

- [Estates Code Chapter 752. Statutory Durable Power of Attorney](#)
  - General Provisions Regarding Statutory Durable Power of Attorney: Subchapter A. ([§752.001 et seq.](#))
  - Form of Statutory Durable Power of Attorney: Subchapter B. ([§752.051 et seq.](#))
  - Construction of Powers Related to Statutory Durable Power of Attorney: Subchapter C. ([§752.001 et seq.](#))

## Public Funds

- Education Code:
  - Subchapter G. School District Depositories [§§45.201 et seq.](#)
- Government Code
  - [Chapter 404. State Treasury Operations of Comptroller \(Investment of state funds in depositories.\)](#)
- Local Government Code:
  - [Chapter 105. Depository for Municipal Funds](#)
  - [Chapter 116. Depositories for County Public Funds](#)
  - [Chapter 117. Depositories for Certain Trust Funds and Court Registry Funds](#)
- Water Code
  - Linked Deposit Program [§§17.904 to 17.912](#)

## Real Property Liens

- Provisions Generally Applicable to Liens: [Property Code Chapter 51](#)
  - Definitions: [§51.0001](#)
  - Effect On Other Liens: [§51.001](#)
  - Sale of Real Property Under Contract Lien: [§51.002](#)
  - Notice of Change of Address Required: [§51.0021](#)
  - Administration of Foreclosure by Mortgage Servicer: [§51.0025](#)
  - Deficiency Judgment: [§51.003](#)
  - Judicial Foreclosure—Deficiency: [§51.004](#)
  - Judicial or Nonjudicial Foreclosure After Judgment Against Guarantor—Deficiency: [§51.005](#)
  - Deed-of-Trust Foreclosure After Deed in Lieu of Foreclosure: [§51.006](#)
  - Trust Under Deed of Trust, Contract for Lien or Security Interest: [§51.007](#)
  - Duties of Trustee: [§51.0074](#)
  - Authority of Trustee or Substitute Trustee: [§51.0075](#)
  - Effective Date of Appointment: [§51.0076](#)
  - Certain Liens on Real Property: [§51.008](#)
  - Foreclosed Property Sold “As Is”: [§51.009](#)
  - Sale of Certain Property Owned by Member of the Military: [§51.015](#)
- Mechanic’s Contractor’s, or Materialman’s Liens: [Property Code Chapter 53](#)
  - Subchapter A. General Provisions
    - Definitions [§53.001](#)
    - More Than One Original Contractor [§53.002](#)
    - Notices [§53.003](#)
  - Subchapter B. Persons Entitled to Lien, Subject Property
    - Persons Entitled To Lien [§53.021](#)
    - Property To Which Lien Extends [§53.022](#)
    - Payment Secured By Lien [§53.023](#)
    - Limitation On Subcontractor's Lien [§53.024](#)
    - Limitation On Ordinary Retainage Lien [§53.025](#)
    - Sham Contract [§53.026](#)
  - Subchapter C. Procedure for Perfecting Lien
    - Necessary Procedures [§53.051](#)
    - Filing Of Affidavit [§53.052](#)
    - Accrual Of Indebtedness [§53.053](#)
    - Contents Of Affidavit [§53.054](#)
    - Notice Of Filed Affidavit [§53.055](#)

- Derivative Claimant: Notice To Owner Or Original Contractor [§53.056](#)
  - Derivative Claimant: Notice For Contractual Retainage Claim [§53.057](#)
  - Derivative Claimant: Notice For Specially Fabricated Items [§53.058](#)
- Subchapter D. Funds Withheld By Owner Following Notice
  - Authority To Withhold Funds For Benefit Of Claimants [§53.081](#)
  - Time For Which Funds Are Withheld [§53.082](#)
  - Payment To Claimant On Demand [§53.083](#)
  - Owner's Liability [§53.084](#)
  - Affidavit Require [§53.085](#)
- Subchapter E. Required Retainage For Benefit Of Lien Claimants
  - Required Retainage [§53.101](#)
  - Payment Secured By Retainage [§53.102](#)
  - Lien On Retained Funds [§53.103](#)
  - Preferences [§53.104](#)
  - Owner's Liability For Failure To Retain [§53.105](#)
  - Affidavit Of Completion [§53.106](#)
  - Notice Relating To Termination Of Work Or Abandonment Of Performance By Original Contractor Or Owner [§53.107](#)
- Subchapter F. Priorities And Preferences
  - Preference Over Other Creditors [§53.121](#)
  - Equality Of Mechanic's Liens [§53.122](#)
  - Priority Of Mechanic's Lien Over Other Liens [§53.123](#)
  - Inception Of Mechanic's Lien [§53.124](#)
- Subchapter G. Release And Foreclosure; Action On Claim
  - Enforcement Of Remedies Against Money Due Original Contractor Or Subcontractor [§53.151](#)
  - Release Of Claim Or Lien [§53.152](#)
  - Defense Of Actions [§53.153](#)
  - Foreclosure [§53.154](#)
  - Transfer Of Property Sold [§53.155](#)
  - Costs And Attorney's Fees [§53.156](#)
  - Discharge Of Lien [§53.157](#)
  - Period For Bringing Suit To Foreclose Lien [§53.158](#)
  - Obligation To Furnish Information [§53.159](#)
  - Summary Motion To Remove Invalid Or Unenforceable Lien [§53.160](#)
  - Bond Requirements After Order To Remove [§53.161](#)
  - Revival Of Removed Lien [§53.162](#)
- Subchapter H. Bond To Indemnify Against Lien
  - Bond [§53.171](#)
  - Bond Requirements [§53.172](#)
  - Notice Of Bond [§53.173](#)
  - Recording Of Bond And Notice [§53.174](#)
  - Action On Bond [§53.175](#)
- Subchapter I. Bond To Pay Liens Or Claims
  - Bond [§53.201](#)
  - Bond Requirements [§53.202](#)
  - Recording Of Bond And Contract [§53.203](#)
  - Reliance On Record [§53.204](#)
  - Enforceable Claims [§53.205](#)
  - Perfection Of Claim [§53.206](#)

- Owner's Notice Of Claim To Surety [§53.207](#)
- Action On Bond [§53.208](#)
- Claims In Excess Of Bond Amount [§53.210](#)
- Attempted Compliance [§53.211](#)
- Subchapter J. Lien On Money Due Public Works Contractor
  - Lien [§53.231](#)
  - To Whom Notice Given; Manner [§53.232](#)
  - Contents Of Notice [§53.233](#)
  - Time For Notice [§53.234](#)
  - Official To Retain Funds [§53.235](#)
  - Bond For Release Of Lien [§53.236](#)
  - Bond Requirements [§53.237](#)
  - Notice Of Bond [§53.238](#)
  - Action On Bond [§53.239](#)
- Subchapter K. Residential Construction Projects
  - Procedures For Residential Construction Projects [§53.251](#)
  - Derivative Claimant: Notice To Owner Or Original Contractor [§53.252](#)
  - Derivative Claimant: Notice For Specially Fabricated Items [§53.253](#)
  - Homestead [§53.254](#)
  - Disclosure Statement Required For Residential Construction Contract [§53.255](#)
  - List Of Subcontractors And Suppliers [§53.256](#)
  - Provisions Related To Closing Of Loan For Construction Of Improvements [§53.257](#)
  - Disbursements Of Funds [§53.258](#)
  - Final Bills-Paid Affidavit Required [§53.259](#)
  - Conveyance To Contractor Not Required [§53.260](#)
- Insurance Code Chapter 3502. Mortgage Guaranty Insurance
  - Subchapter E. Lender Powers and Duties
    - Definition [§3502.201](#)
    - Notice of Borrower's Right to Cancel [§3502.202](#)
    - Refund of Premium [§3502.203](#)
    - Advertising of "Insured Loans" [§3502.204](#)

## Registration of Financial Institutions

- Definitions [Finance Code §201.101](#)
- Registration to Do Business (Out of state financial institutions) [Finance Code §201.102](#)
- Appointment of Agent to Receive Service of Process [Finance Code §201.103](#)
- To Appoint an agent: Secretary of State's [Form 706—General Information \(Appointment of Statutory Agent\)](#)

Requests for Customer Records – See [Discovery of Customer Records](#)

Right of Survivorship Accounts – See [Multiple-Party Accounts](#)

## Safe Deposit Boxes

- Safe Deposit Boxes: [Finance Code Chapter 59, Subchapter B \(59.101 et seq.\)](#)
- Examination of Documents and Safe Deposit Boxes: [Estates Code Chapter 151](#)

## Service on Financial Institutions

- Service on Financial Institutions [Civil Practice and Remedies Code §17.028](#)

## Statute of Frauds

- [Business and Commerce Code Chapter 26](#)
  - Promise or Agreement Must be in Writing: [§26.01](#)
  - Loan Agreement Must be in Writing: [§26.02](#)

## Subpoenas

- Texas Rules of Civil Procedure
  - [176, 192-193, 199, 200, and 205](#)
- Texas Civil Practice & Remedies Code
  - [§§22.001 and 22.002](#)
- Service on Financial Institutions [Civil Practice and Remedies Code §17.028](#)

**NOTE:** We always recommend that you immediately turn over any civil or criminal process served on your bank to your attorney. Failure to comply with the rules of procedure can be costly. (Federal Subpoenas are subject to the [Federal Rules of Civil Procedure](#), specifically 26, 30-31, and 45)

## Tax Lien Lenders

- [Finance Code Chapter 351](#)
  - Authorized Charges [Finance Code §351.0021](#)
  - Waiver Prohibited [Finance Code §351.0022](#)
- [Tax Code §32.06](#)
- 7 Texas Administrative Code Chapter 89
  - Requests for Payoff Statements [7 TAC §89.801](#)
  - Payoff Statements [7 TAC §89.802](#)
  - Model Forms [7 TAC §89.803](#)
    - [Model Request for Payoff Statement](#)
    - [Model Payoff Statement](#)
  - Permissible Changes [7 TAC §89.804](#)

## Trusts

- Certification of Trust: [Property Code §114.086](#) (A certification of trust can be obtained instead of obtaining a copy of a trust when opening an account or doing other banking business with a trust.)

## Unauthorized Practice of Law

- [Government Code Chapter 83](#)

## Unclaimed Property

- Escheat of Property: [Property Code Chapter 71](#)
- Abandonment of Personal Property: [Property Code Chapter 72](#)
  - Application of Chapter: [§72.001](#)
  - Personal Property Presumed Abandoned: [§72.101](#)
  - Unclaimed Wages: [§72.1015](#)
  - Stored Value Card: [§72.1016](#)
  - Utility Deposits: [§72.1017](#)
  - Traveler's Check and Money Order: [§72.102](#)
  - Shares of Mutual Fund; Designation of Representative for Notice: [§72.1021](#)

- Preservation of Property: [§72.103](#)
- Tangible Personal Property Held by County: [§72.104](#)
- Property Held by Financial Institutions: [Property Code Chapter 73](#)
  - Definitions and Application of Chapter: [§73.001](#)
  - Depository: [§73.002](#)
  - Preservation of Inactive Account or Safe Deposit Box: [§73.003](#)
  - Inactive Account or Safe Deposit Box Presumed Abandoned: [§73.101](#)
  - Checks: [§73.102](#)
  - Designation of Representative for Notice: [§73.103](#) (Effective September 1, 2017)
- Report, Delivery, and Claims Process
  - Subchapter A. Applicability
    - Applicability: [§74.001](#)
  - Subchapter B. Property Report
    - Property Report: [§74.101](#)
    - Notice by Property Holder Required: [§74.1011](#)
    - Signed Statement: [§74.102](#)
    - Retention of Records: [§74.103](#)
    - Confidentiality of Property Report: [§74.104](#)
  - Subchapter C. Notice By Comptroller
    - Required Notice: [§74.201](#)
    - Notice for Item with Value Less Than \$100: [§74.202](#)
    - Authorized Notice: [§74.203](#)
    - Charge for Notice: [§74.205](#)
  - Subchapter D. Delivery
    - Delivery of Property to Comptroller: [§74.301](#)
- [Unclaimed Property page on website of Comptroller of Public Accounts](#)
- [Unclaimed Property Reporting Instructions](#)

## Uniform Electronic Transactions Act

- Business and Commerce Code Chapter 322
  - Short Title [§322.001](#)
  - Definitions [§322.001](#)
  - Scope [§322.003](#)
  - Prospective Application [§322.004](#)
  - Use of Electronic Records and Electronic Signatures; Variation by Agreement [§322.005](#)
  - Construction and Application [§322.006](#)
  - Legal Recognition Records, Electronic Signatures, and Electronic Contracts [§322.007](#)
  - Provisions of Information in Writing; Presentation of Writing [§322.008](#)
  - Attribution and Effect of Electronic Record and Electronic Signature [§322.009](#)
  - Effect of Change or Error [§322.010](#)
  - Notarization and Acknowledgement [§322.011](#)
  - Retention of Electronic Records; Originals [§322.012](#)
  - Admissibility in Evidence [§322.013](#)
  - Automated Transaction [§322.014](#)
  - Time and Place of Sending and Receipt [§322.015](#)
  - Transferable Records [§322.016](#)
  - Acceptance and Distribution of Electronic Records by Governmental Agencies [§322.017](#)
  - Interoperability [§322.018](#)
  - Exemption to Preemption by Federal Electronic Signatures Act [§322.019](#)

- Applicability of Penal Code [§322.020](#)
- Certain Requirements Considered to be Recommendations [§322.021](#)

Uniform Transfers to Minors Act (TUTMA) – See [Minors' Accounts](#)

## Victims of Identity Theft

- Business and Commerce Code; Chapter 523. Provisions Relating to Victims of Identity Theft
  - Subchapter A. Extensions of Credit and Verification of Identity
    - Extension of Credit to Victim of Identity Theft [§523.001](#)
    - Verification of Consumer Identity [§523.002](#)
  - Subchapter B. Duties of Financial Institutions and of Verification Entities
    - Notation of Forged Check [§523.051](#)
    - Notification to Check Verification Entities That Customer is Victim of Identity Theft [§523.052](#)
    - Texas Department of Banking's Closed Account Notification System
      - [Log in or create account](#)
      - [User Manual](#)
      - [Frequently Asked Questions](#)
      - [Sworn Statement of Identity Theft](#)

Wire Transfers – See [Funds Transfers](#)

## Revisions History:

08.10.2016: Added Chapter 404 to Public Funds