

Major U.S. Banking Laws

The most important laws that have affected the banking industry in the United States are listed below (in chronological order).

- **National Bank Act of 1864** (Chapter 106, 13 STAT. 99).
Established a national banking system and the chartering of national banks.
- **Federal Reserve Act of 1913** (P.L. 63-43, 38 STAT. 251, 12 USC 221).
Established the Federal Reserve System as the central banking system of the U.S.
- **The McFadden Act of 1927** (P.L. 69-639, 44 STAT. 1224).
Amended the National Banking Laws and the Federal Reserve Act and prohibited interstate banking.
- **Banking Act of 1933** (P.L. 73-66, 48 STAT. 162).
Also known as the Glass-Steagall Act. Established the FDIC as a temporary agency. Separated commercial banking from investment banking, establishing them as separate lines of commerce.
- **Banking Act of 1935** (P.L. 74-305, 49 STAT. 684).
Established the FDIC as a permanent agency of the government. It extended the branching provisions of the Banking Act of 1933 to FDIC non-members and required state member banks to obtain Federal Reserve Board approval of new branches.
- **Soldiers and Sailors Civil Relief Act of 1940** (50 App. U.S.C. § 501).
The Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), as amended, was passed by Congress to provide protection for individuals entering or called to active duty in the military service. It is intended to postpone or suspend certain civil obligations to enable servicemembers to devote full attention to duty. The Act applies to the United States, the states, the District of Columbia, all U.S. territories and in all courts therein. It covers such issues as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings and income tax payments.

Editor's Note: This statute was amended and renamed the Servicemembers Civil Relief Act (Public Law No: 108-189) on December 19, 2003. Click [here](#) for a summary of the new statute's provisions.
- **Federal Deposit Insurance Act of 1950** (P.L. 81-797, 64 STAT. 873).
Revised and consolidated earlier FDIC legislation into one Act. Embodied the basic authority for the operation of the FDIC.
- **Bank Holding Company Act of 1956** (P.L. 84-511, 70 STAT. 133). (links to FDIC)
Required Federal Reserve Board approval for the establishment of a bank holding company. Prohibited bank holding companies headquartered in one state from acquiring a bank in another state.
- **Bank Secrecy Act (BSA) of 1970** (53 U.S.C. 5311, et seq).
More formally known as The Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970. Designed to aid the federal government in detecting illegal activity through tracking certain monetary transactions. Requires financial institutions to file reports of transactions conducted in currency in amounts over \$10,000. Requires recordkeeping on beneficiaries and originators of funds transfers in amounts over \$3,000. Requires information gathering

and recordkeeping on sales of monetary equivalents (money orders, cashier's checks, traveler's checks) in amounts between \$3,000 and \$10,000. Establishes certain exemptions to the currency transaction reporting requirements. The corresponding BSA regulation is found at 31 C.F.R. Part 103.

- **Fair Credit Reporting Act of 1971** (P.L. 91-508 as amended by P.L. 107-56 (October 26, 2001) 15 U.S.C. § 1681). (links to FTC)

Specifies the purposes for which a consumer report (often referred to as a credit report) or an investigative consumer may be obtained and the procedures which must be followed. This law places duties on the consumer reporting agency, reporting entities, and users of reports, and specifies certain protections for consumers.

Editor's Note: This statute was amended by the Fair and Accurate Credit Transactions Act of 2003 which became law on December 4, 2003. Click [here](#) for a summary of the new statute's provisions.

- **Real Estate Settlement Procedures Act of 1974 (RESPA)** (P.L. 93-533) (links to HUD)

RESPA is a HUD enforced consumer protection statute designed to help homebuyers be better shoppers in the home buying process.

The statute directs the HUD Secretary to prepare and distribute special booklets to help persons borrowing money to finance the purchase of residential real estate to better understand the nature and costs of real estate settlement services.

RESPA requires that consumers receive disclosures at various times in the transaction and outlaws kickbacks that increase the cost of settlement services.

It mandates the use of a standard form for the statement of real estate settlement costs which shall be used in all transactions in the United States which involve federally related mortgage loans.

Requires such form to conspicuously and clearly itemize the charges imposed upon both the borrower and the seller in connection with the settlement.

Prohibits insured and other banks from making a federally related mortgage loan to any person unless specified information has been disclosed to the bank.

- **Community Reinvestment Act of 1977** (Title VII of P.L. 95-128, 91 Stat. 1147 (October 12, 1977); Codified at 12 U.S.C. 2901) (links to FDIC)

The Community Reinvestment Act is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. It was enacted by the Congress in 1977 and was amended in 1978, 1992 and 1994. It is implemented by Regulation BB (12 CFR 228).

- **International Banking Act of 1978** (P.L. 95-369, 92 STAT. 607). (links to LLI at Cornell)

Brought foreign banks within the federal regulatory framework. Required deposit insurance for branches of foreign banks engaged in retail deposit taking in the U.S.

- **Financial Institutions Regulatory and Interest Rate Control Act of 1978** (P.L. 95-630, 92 STAT. 3641).

Also known as FIRIRCA. Created the Federal Financial Institutions Examination Council (FFIEC). Established limits and reporting requirements for bank insider transactions, limits on correspondent accounts, restructures the operations of the NCUA and creates the NCUA Board. Created major statutory provisions regarding electronic fund transfers. Title XI of this act is the Right to Financial Privacy Act of 1978 (see separate entry below)

- **Right to Financial Privacy Act of 1978** (12 U.S.C. 3401 et seq.)

The Right to Financial Privacy Act was Congress' response to a U.S. Supreme Court decision that found bank customers had no legal right of privacy for their financial information held by financial institutions. The law is largely procedural and requires government agencies to provide notice and an opportunity to object before a bank or other institution can disclose personal financial information to a government agency, usually for law enforcement purposes. The law was amended in the latter 1980s to allow postponement of notice in investigations dealing with drug trafficking and espionage.

- **Depository Institutions Deregulation and Monetary Control Act of 1980** (P.L. 96-221, 94 STAT. 132).

Also known as DIDMCA. Established "NOW Accounts." Began the phase-out of interest rate ceilings on deposits. Established the Depository Institutions Deregulation Committee. Granted new powers to thrift institutions. Raised the deposit insurance ceiling to \$100,000.

- **Depository Institutions Act of 1982** (P.L. 97-320, 96 STAT. 1469).

Also known as Garn-St. Germain Act. Expanded FDIC powers to assist troubled banks. Established the Net Worth Certificate program. Expanded the powers of thrift institutions.

- **Competitive Equality Banking Act of 1987** (P.L. 100-86, 101 STAT. 552).

Also known as CEBA. Established new standards for expedited funds availability. Recapitalized the Federal Savings & Loan Insurance Company (FSLIC). Expanded FDIC authority for open bank assistance transactions, including bridge banks.

- **Financial Institutions Reform, Recovery, and Enforcement Act of 1989** (P.L. 101-73, 103 STAT. 183).

Also known as FIRREA. FIRREA's purpose was to restore the public's confidence in the savings and loan industry. FIRREA abolished the Federal Savings & Loan Insurance Corporation (FSLIC), and the FDIC was given the responsibility of insuring the deposits of thrift institutions in its place.

The FDIC insurance fund created to cover thrifts was named the Savings Association Insurance Fund (SAIF), while the fund covering banks was called the Bank Insurance Fund (BIF).

FIRREA also abolished the [Federal Home Loan Bank](#) Board. Two new agencies, the Federal Housing Finance Board (FHFB) and the Office of Thrift Supervision (OTS), were created to replace it.

Finally, FIRREA created the [Resolution Trust Corporation](#) (RTC) as a temporary agency of the government. The RTC was given the responsibility of managing and disposing of the assets of failed institutions. An Oversight Board was created to provide supervisory authority over the policies of the RTC, and the [Resolution Funding Corporation](#) (RFC) was created to provide funding for RTC operations.

- **Crime Control Act of 1990** (P.L. 101-647, 104 STAT. 4789).

Title XXV of the Crime Control Act, also known as the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990, greatly expanded the authority of Federal regulators to combat financial fraud.

This act prohibited undercapitalized banks from making golden parachute and other indemnification payments to institution-affiliated parties. It also increased penalties and prison time for those convicted of bank crimes, increased the powers and authority of the FDIC to take enforcement actions against institutions operating in an unsafe or unsound manner, and gave regulators new procedural powers to recover assets improperly diverted from financial institutions.

- Federal Deposit Insurance Corporation Improvement Act of 1991** (P.L. 102-242, 105 STAT. 2236).

Also known as FDICIA. FDICIA greatly increased the powers and authority of the FDIC. Major provisions recapitalized the Bank Insurance Fund and allowed the FDIC to strengthen the fund by borrowing from the Treasury.

The act mandated a least-cost resolution method and prompt resolution approach to problem and failing banks and ordered the creation of a risk-based deposit insurance assessment scheme. Brokered deposits and the solicitation of deposits were restricted, as were the non-bank activities of insured state banks. FDICIA created new supervisory and regulatory examination standards and put forth new capital requirements for banks. It also expanded prohibitions against insider activities and created new Truth in Savings provisions.
- Housing and Community Development Act of 1992** (P.L. 102-550, 106 STAT. 3672).

Established regulatory structure for government-sponsored enterprises (GSEs), combated money laundering, and provided regulatory relief to financial institutions.
- RTC Completion Act** (P.L. 103-204, 107 STAT. 2369).

Requires the RTC to adopt a series of management reforms and to implement provisions designed to improve the agency's record in providing business opportunities to minorities and women when issuing RTC contracts or selling assets. Expands the existing affordable housing programs of the RTC and the FDIC by broadening the potential affordable housing stock of the two agencies.

Increases the statute of limitations on RTC civil lawsuits from three years to five, or to the period provided in state law, whichever is longer. In cases in which the statute of limitations has expired, claims can be revived for fraud and intentional misconduct resulting in unjust enrichment or substantial loss to the thrift. Provides final funding for the RTC and establishes a transition plan for transfer of RTC resources to the FDIC. The RTC's sunset date is set at Dec. 31, 1995, at which time the FDIC will assume its conservatorship and receivership functions.
- Riegle Community Development and Regulatory Improvement Act of 1994** (P.L. 103-325, 108 STAT. 2160).

Established a Community Development Financial Institutions Fund, a wholly owned government corporation that would provide financial and technical assistance to CDFIs.

Contains several provisions aimed at curbing the practice of "reverse redlining" in which non-bank lenders target low and moderate income homeowners, minorities and the elderly for home equity loans on abusive terms. Relaxes capital requirements and other regulations to encourage the private sector secondary market for small business loans.

Contains more than 50 provisions to reduce bank regulatory burden and paperwork requirements. Requires the Treasury Dept. to develop ways to substantially reduce the number of currency transactions filed by financial institutions. Contains provisions aimed at shoring up the National Flood Insurance Program.
- Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994.** (P.L. 103-328, 108 STAT. 2338).

Permits adequately capitalized and managed bank holding companies to acquire banks in any state one year after enactment. Concentration limits apply and CRA evaluations by the Federal Reserve are required before acquisitions are approved. Beginning June 1, 1997, allows interstate mergers between adequately capitalized and managed banks, subject to concentration limits, state laws and CRA evaluations. Extends the statute of limitations to permit the FDIC and RTC to revive lawsuits that had expired under state statutes of limitations.

- **Home Ownership and Equity Protection Act (HOEPA) of 1994.** HOEPA combats abuses in the home equity lending market and places restrictions on, and requires added disclosures with respect to, certain high-cost mortgage loans. The disclosures are contained in an abbreviated disclosure statement given at least three days before closing, and the restrictions are on certain loan terms that are associated with abusive lending. Coverage depends on whether the loan's annual percentage rate or the total of points and fees exceeds a specified percentage or amount.
- **Economic Growth and Regulatory Paperwork Reduction Act of 1996** (P.L. 104-208, 110 STAT. 3009).
Modified financial institution regulations, including regulations impeding the flow of credit from lending institutions to businesses and consumers. Amended the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974 to streamline the mortgage lending process.

Amended the FDIA to eliminate or revise various application, notice, and recordkeeping requirements to reduce regulatory burden and the cost of credit. Amended the Fair Credit Reporting Act to strengthen consumer protections relating to credit reporting agency practices.

Established consumer protections for potential clients of consumer repair services. Clarified lender liability and federal agency liability issues under the CERCLA. Directed FDIC to impose a special assessment on depository institutions to recapitalize the SAIF, aligned SAIF assessment rates with BIF assessment rates and merged the SAIF and BIF into a new Deposit Insurance Fund.
- **Children's Online Privacy Protection Act of 1998** ([links to FTC](#))

The Children's Online Privacy Protection Act, effective April 21, 2000, applies to the online collection of personal information from children under 13. The new rules spell out what a Web site operator must include in a privacy policy, when and how to seek verifiable consent from a parent and what responsibilities an operator has to protect children's privacy and safety online.

To determine whether a web site is directed to children, defined as being 13 years old and younger, the Federal Trade Commission, the governmental body in charge of enforcement, looks at several factors as to the site, including:
 - the subject matter;
 - the visual or audio content;
 - the age of models on the site;
 - language;
 - whether advertising on the site is directed to children;
 - information regarding the age of the actual or intended audience; and
 - whether a site uses animated characters or other child-oriented features.
- **Gramm-Leach Bliley Act of 1999** (P.L. 106-102, 113 STAT 1338) ([pdf version from GPO](#))

Repeals last vestiges of the Glass Steagall Act of 1933. Modifies portions of the Bank Holding Company Act to allow affiliations between banks and insurance underwriters. While preserving authority of states to regulate insurance, the act prohibits state actions that have the effect of preventing bank-affiliated firms from selling insurance on an equal basis with other insurance agents. Law creates a new financial holding company under section 4 of the BHCA, authorized to engage in: underwriting and selling insurance and securities, conducting both commercial and merchant banking, investing in and

developing real estate and other "complimentary activities." There are limits on the kinds of non-financial activities these new entities may engage in.

Allows national banks to underwrite municipal bonds.

Restricts the disclosure of nonpublic customer information by financial institutions. All financial institutions must provide customers the opportunity to "opt-out" of the sharing of the customers' nonpublic information with unaffiliated third parties. The Act imposes criminal penalties on anyone who obtains customer information from a financial institution under false pretenses.

Amends the Community Reinvestment Act to require that financial holding companies can not be formed before their insured depository institutions receive and maintain a satisfactory CRA rating. Also requires public disclosure of bank-community CRA-related agreements. Grants some regulatory relief to small institutions in the shape of reducing the frequency of their CRA examinations if they have received outstanding or satisfactory ratings.

Prohibits affiliations and acquisitions between commercial firms and unitary thrift institutions.

Makes significant changes in the operation of the [Federal Home Loan Bank System](#), easing membership requirements and loosening restrictions on the use of FHLB funds.

- **[Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, \("USA PATRIOT Act"\)](#)** (Pub. L. No. 107-56, 115 Stat. 272) (pdf version from GPO)

Signed by President [Bush](#) on October 26, 2001, the USA PATRIOT Act contains strong measures to prevent, detect, and prosecute terrorism and international money laundering. The Act is far-reaching in scope, covering a broad range of financial activities and institutions.

The provisions affecting banking organizations are generally incorporated as amendments to the Bank Secrecy Act (BSA). The Act, whose coverage extends beyond insured depository institutions, provides the statutory groundwork for new filing and reporting obligations for banks and thrifts. It also requires certain additional due diligence and recordkeeping practices, especially in the area of private banking and foreign correspondent accounts. Some requirements take effect without the issuance of regulations. The U.S. Department of the Treasury, in consultation with the FRB, FDIC, OCC, OTS and the other federal financial institutions regulators, will implement other provisions through new or revised regulations.

- **[Sarbanes-Oxley Act of 2002](#)** (Pub. L. No. 107-204) (pdf version from GPO)

Signed by President Bush on July 30, 2002, the Sarbanes-Oxley Act of 2002 includes far-reaching changes in federal securities regulation that could represent the most significant overhaul since the enactment of the Securities Exchange Act of 1934.

The Act prescribes a system of federal oversight of public auditors through a new five-member Public Company Accounting Oversight Board, a new set of auditor independence rules, new disclosure requirements applicable to public companies and insiders (including attorneys), and harsh civil and criminal penalties for persons who are responsible for accounting or reporting violations.

Under the Act, CEOs and CFOs of public companies are now required to personally certify that the reports their companies file with the SEC are both accurate and complete. The Act also imposes new restrictions on loans and stock

transactions involving corporate insiders while requiring the SEC or SROs to adopt rules addressing conflicts of interest involving securities analysts.

- **[The Check Clearing for the 21st Century Act \("Check 21 Act"\)](#)** - (Pub. L. No. 108-100) (pdf version from GPO)
Signed by President Bush on October 28, 2003, the Act sets forth a statutory framework under which a substitute check is the legal equivalent of an original check for all purposes.
Defines check truncation as removing an original paper check from the check collection or return process and sending in lieu of it a substitute check or, by agreement, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without subsequent delivery of the original paper check.
The statute prescribes implementation guidelines, establishes a one-year statute of limitations for claims arising under the act with a comparative negligence standard for breach of warranty or failure to comply with requirements, and a consumer education requirement.
The Board of Governors of the Federal Reserve System must study and report to Congress on several items including: (1) the percentage of total checks cleared in which the paper check is not returned to the paying bank; (2) the extent to which banks make funds available to consumers for local and nonlocal checks before the expiration of maximum hold periods; (3) the length of time within which depository banks learn of the nonpayment of local and nonlocal checks; (4) the increase or decrease in check-related losses over the study period; and (5) the appropriateness of certain time periods and amount limits applicable under the Expedited Funds Availability Act, as in effect on the date of enactment of this Act.
The Comptroller General is instructed to evaluate and report to Congress on the implementation and administration of this Act.
- **[Fair and Accurate Credit Transactions Act of 2003 \(FACT\)](#)** - (Pub. L. 108-159, 117 Stat. 1952) (pdf version from GPO)
The Fair and Accurate Credit Transactions Act of 2003 (FACT) signed by President Bush on December 19, 2003), amends the [Fair Credit Report Reporting Act](#) [15 U.S.C. 1681 et seq.](“FCRA”) for the purpose of preventing identity theft, improving the resolution of consumer disputes and accuracy of consumer records, enhancing consumer access to credit information, and creating a Financial Literacy and Education Commission. The Act highlights: (1) the establishment of procedures for the identification of identity theft; (2) the protection and restoration of identity theft victim credit histories; (3) the improvement in the use of and consumer access to credit information; (4) consumer's opt-out of information sharing by banks with other companies for marketing purposes; (5) pricing notices to loan applicants if they are offered terms less favorable than those available to a substantial portion of consumers; (6) the use and sharing of medical information in the financial system; and (7) communications excluded from employee investigations in FCRA. The legislation also made permanent FCRA's preemption of state laws that was set to expire in 2004.
- **[Servicemember's Civil Relief Act \(SCRA\)](#)** - (Pub. L. No. 108-100) (pdf version from GPO)
The Servicemember's Civil Relief Act (SCRA), signed by President Bush on December 19, 2003, renames, expands and improves the former [Soldiers' and Sailors' Civil Relief Act \(SSCRA\)](#). The SCRA provides a wide range of protections for individuals entering, called to active duty in the military, or deployed servicemembers. It is intended to postpone or

suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members of those deployed servicemembers. A few examples of such obligations servicemembers may be protected against are: outstanding, credit card debt, mortgage payments, pending trials, taxes, and terminations of lease.

In addition, the new law:

- Expands current law that protects servicemembers and their families from eviction from housing while on active duty due to nonpayment of rents that are \$1,200 per month or less. Under the new provisions this protection would be significantly updated to meet today's higher cost of living – covering housing leases up to \$1,700 per month – and then be adjusted annually to account for inflation.
- Provides a servicemember who receives permanent change of station orders or who is deployed to a new location for 90 days or more the right to terminate a housing lease.
- Clarifies and restates existing law that limits to 6 percent interest on credit obligations, including credit card debt, for active duty servicemembers. The SCRA unambiguously states that no interest above 6 percent can accrue for credit obligations while on active duty, nor can that excess interest become due once the servicemember leaves active duty – instead that portion above 6 percent is permanently forgiven. Furthermore, the monthly payment must be reduced by the amount of interest saved during the covered period.
- Updates life insurance protections provided to activated Guard and reserve members by increasing from \$10,000 to \$250,000 the maximum policy coverage that the federal government will protect from default for nonpayment while on active duty.
- Prevents servicemembers from a form of double taxation that can occur when they have a spouse who works and is taxed in a state other than the state in which they maintain their permanent legal residence. SCRA will prevent states from using the income earned by a servicemember in determining the spouse's tax rate when they do not maintain their permanent legal residence in that state.

- **Bankruptcy Abuse Prevention and Consumer Protection Act of 2005** - (Pub. L. 109-8) (pdf version from GPO)

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Act") was passed by Congress and signed into law by President Bush on April 20, 2005 and makes substantial revisions to the Bankruptcy Code and related statutes. These revisions, the most significant changes in bankruptcy law and practice since the adoption of the Bankruptcy Code in 1978, affect all areas of bankruptcy practice, including consumer, business, tax, and international bankruptcy law. The Act is generally viewed as making it more difficult for individuals to have their unsecured nonpriority debts discharged in bankruptcy.

Some key provisions:

- Amends Federal bankruptcy law to revamp guidelines governing dismissal or conversion of a Chapter 7 liquidation (complete relief in bankruptcy) to one under either Chapter 11 (Reorganization) or Chapter 13 (Adjustment of Debts of an Individual with Regular Income).

- Replaces the presumption in favor of granting the relief sought by the debtor with a presumption that abuse exists if the debtor's current monthly income exceeds an amount determined according to specified formulae (implementing the new "means test").
- Revises procedural guidelines to mandate a written notice to the individual consumer debtor before commencement of a case stating: (1) the types of services available from credit counseling agencies; (2) the criminal penalties for fraudulent concealment of assets; and (3) that all creditor-supplied information is subject to examination by the Attorney General.
- Prohibits an individual debtor from filing under Federal bankruptcy law unless the individual has received a briefing from an approved nonprofit budget and credit counseling service prior to filing a bankruptcy petition and conditions a Chapter 7 or Chapter 13 discharge in bankruptcy upon the debtor's completion of an approved instructional course concerning personal financial management.
- The Act will force debtors to make earlier decisions on their real estate needs, before or shortly after filing bankruptcy petitions. An unexpired lease of non-residential real estate will automatically be deemed "rejected" if a debtor fails to file a motion to either assume or reject the lease within 120 days after commencing a Chapter 11 case.
- The Act amends the Federal Truth in Lending Act to require lenders to disclose certain information when soliciting consumers for credit card accounts over the Internet. This information includes annual percentage rates for accounts, annual fees, grace periods for payments and methods for calculating account balances. Under previously existing law, lenders have already been required to disclose this information in direct mail solicitations.