



BANKING LAW RESEARCH GUIDE

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PURPOSE:

This guide is designed to help researchers find Banking Law resources in the Barclay Law Library. It is not intended to be an exhaustive review of the resources available on the topic. The emphasis is on basic primary law (codes and regulations), secondary sources and finding aids for researching the various aspects of Banking Law. Most research in Banking Law involves research in statutes and administrative law. It also involves research in a variety of secondary sources. This guide is limited to these basic sources. It will be updated periodically to reflect new title or resources brought into the library's Banking Law collection.

OUTLINE:

I. PRIMARY SOURCES

- A. Codes
- B. Rules & Regulations

II. SECONDARY SOURCES

- A. Treatises & Practice Materials
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- C. Law Reviews & Journals

III. FINDING TOOLS

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- B. Periodical Indexes

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A. Web sites of interest

PRIMARY SOURCES

Banks and financial institutions are regulated by both federal and state statutory law. The banker-customer relationship and the duties and liabilities of banks are contained in statutory law, cases and administrative agency rules and regulations. Customer bank accounts may be established by national and state chartered banks and by savings associations. All are regulated by the law under which they were established.

A. Federal Statutes: United States Code (U.S.C.) Floor 4

Federal statutes dealing with banks and banking are found mainly in Title 12 of the United States Code (U.S.C.) . Title 12 is divided into 49 chapters. Relevant chapters include the following:

- National Banks 12 U.S.C., Chapter 2
- Federal Reserve System 12 U.S.C., Chapter 3
Garn-St. Germain Depository Institutions Act - 12 U.S.C. § 371a
- Crimes and Offenses 12 U.S.C., Chapter 5
- Foreign Banks 12 U.S.C., Chapter 6
- Federal Home Loan Banks 12 U.S.C., Chapter 11
- Savings Associations 12 U.S.C., Chapter 12
Laws regulating Federal Savings and Loan Associations - 12 U.S.C. §§ 1461 - 1470
- Federal Credit Unions 12 U.S.C. Chapter 14
- FDIC 12 U.S.C., Chapter 16
Federal Deposit Insurance Corporation - 12 USC §§ 1811 - 1832
- Real Estate Settlement Procedures 12. U.S.C. Chapter 27
- Foreign Banks in Domestic Markets 12 U.S.C., Chapter 32
- Expedited Funds Availability 12 U.S.C., Chapter 40
The Expedited Funds Availability Act - 12 U.S.C. §§ 4001 - 4010

Other related U.S.C. titles and sections dealing with banking and banking law include but are not limited to::

- Criminal Offenses 18 U.S.C. §§212-215
- Banking Associations as Parties to Civil Litigation 28 U.S.C. § 1348

B. *Uniform Commercial Code*

Checks are negotiable instruments. As such, the provisions of Article 3 of the *Uniform Commercial Code* (UCC) govern the relationship between parties who receive and transfer checks. The UCC has been substantially adopted as statutory law in nearly every state. It governs numerous areas of commercial law. It is currently it is divided into thirteen Articles:

UCC articles relevant to banking and banking law include:

- Negotiable Instruments Article 3
- Bank Deposits Article 4
- Fund Transfers Article 4A
- Letters of Credit Article 5
- Investment Securities Article 8

Sources to consult:

Uniform Commercial Code, American Law Institute, Chicago 1990. KF878.A44
(Note: The titles in this series are classified individually by article)

Starnes, Cynthia, *Uniform Commercial Code with Practice Comments*, 3rd., Thomson/West, 2004- KFM4230 1948 .A443

ADMINISTRATIVE LAW

A. *Code of Federal Regulations* (CFR) Floor 4 Unclassified

Title 12 of the *Code of Federal Regulations* contains rules and regulations that deal with the regulation of banks and banking. Chapters relevant to banking include:

- Comptroller of the Currency, Department of the Treasury (Chapter I),
- Federal Reserve System (Chapter II),
- Federal Deposit Insurance - Corporation (Chapter III), and
- Office of Thrift Supervision of the Department of the Treasury (Chapter V).

B. Banking Regulatory Agencies Include:

1. Federal Deposit Insurance Corporation (FDIC) – Established by the Banking Act of 1933 (P.L. 73-66, 48 STAT. 162)

Regulations and Statutes:

12 U.S.C. 1811, et seq.

12 C.F.R. 300, et seq.

2. Federal Financial Institutions Examination Council (FFIEC) – Established in 1979 pursuant to Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. sec. 3301)

FFIEC was created to promote uniform supervisory and examination policies for federally insured depository institutions, including a uniform system for rating banks.

3. Federal Reserve System (FRS) – Established in 1913 by the Federal Reserve Act (12 USC 221, et seq.).

Among other things, the Federal Reserve System determines economic and monetary policy for the United States and examines all national banks, state chartered member banks, and bank holding companies

Regulations:

12 C.F.R. 201, et seq.

4. National Credit Union Administration

Created in 1970 to charter and supervise federal credit unions

Regulations:

12 C.F.R. 700, et seq.

5. Office of the Comptroller of the Currency

Created in 1863 by the National Currency Act. The Comptroller is appointed by the President, with the advice and consent of the Senate, for a five year term. A major function of the Office (among others) is to charter national banks.

Regulations and statutes:

12 USC 1, et seq.

12 C.F.R. 1, et seq.

6. Office of Thrift Supervision (OTS) – Established in 1989 by Financial Institutions Regulatory Reform and Enforcement Act as part of the Treasury Department.

Thrifts are savings associations and savings and loan holding companies. The Director of OTS is appointed to a five year term by the President with the advice and consent of the Senate. The OTS serves as the primary regulator of all federal and state-chartered thrift institutions

Regulations:

12 C.F.R. 500, et seq.

Useful sources of information about these entities can be found in:

Federal Yellow Book, Leadership Directories, Inc., 2005 JK 6. F45 (Reference Wall)

The United States Government Manual, U.S. Government Printing Office, 2003-2004 JK421.A3 (Reference Wall)

STATE STATUTES

Location Stacks 1 – 3 (alphabetical order, by jurisdiction)

The *Uniform Commercial Code* (UCC) has been adopted as statutory law, with some modifications, in nearly every state. The law library carries the codes of the fifty states. Most are annotated. Online versions can also be found in Westlaw, Lexis or the Internet.

A. *Uniform Commercial Code Locator*

The Uniform Commercial Code Locator is a web based resource designed to locate relevant UCC statutory law for a given state. It is available through the Legal Information Institute web site at <http://www.law.cornell.edu/uniform/ucc.html#a1>

The *Uniform Commercial Code Locator* links researchers to state statutes that correspond to Articles 1 – 9 of the Uniform Commercial Code. The links are organized by Article and under each article by the state code and the specific code provision or provisions,

1. The articles relevant to banking and banking law include:

- Negotiable Instruments Article 3,
- Bank Deposits Article 4,
- Fund Transfers Article 4A,
- Letters of Credit Article 5, and
- Investment Securities Article 8.

B. *UCC & New York Banking Laws* Floor 3 (reference wall) and Stack 1

1. *McKinney's Consolidated Laws of New York, Annotated* (“McKinney’s”) KFN 5030 .A43;

McKinney's is arranged by Title and Section number. The banking laws will be found under the "Banking Law" title and the UCC will be found under the "Uniform Commercial Code" title.

The Banking Laws are listed in Chapter 2, Articles I – XVI. The U.C.C. is listed in Chapter 38, Articles 1-13. See, for example:

- N.Y. BANKING LAW §§ 1-9-t (Title and definitions)
- N.Y. BANKING LAW §§ 10-59 (Banking Department; Superintendent Of Banks; Supervisory And Regulatory Powers)
- N.Y. BANKING LAW §§ 90-140-a (Banks and Trust Companies)
- N.Y. U.C.C. LAW §§ 1-101 – 1-109 (Title, Construction and Application)
- N.Y. U.C.C. LAW §§ 3-101 – 3-805 (Commercial Papers)

McKinney's also provides in the introductory pages of the UCC title (McKinney's 2002 p. XVII) a Table of Jurisdictions where the UCC has been adopted.

2. New York Consolidated Laws Service: Annotated Statutes With Forms (CLS), KFN 5030 .A45 Stack 1

- Text of laws identical to McKinney's.

3. *New York Commercial Law (Goldbook)*, LexisNexis, 2005 KFN 5266.A34C66

This publication contains the *Uniform Commercial Code* for New York. It is organized by the 13 articles of the UCC. Annotations (purpose, policies, comments and case abstracts) are provided after the text of each section of the articles. Included also is the text of the New York General Obligations Law and an index.

SECONDARY SOURCES

Secondary sources provide the researcher with a general overview of a topic and identify, with citations, the relevant primary law that relate to a topic. These sources should be used to find citations or references to primary sources (the law) and to gain an overview of a particular subject such as Banking Law.

Secondary sources include:

- Encyclopedias
- Dictionaries and Reference Tools
- Treatises & texts (see Bibliography below)
- Journal literature (see Finding Aids and Law Reviews)

A. National Encyclopedias

There are two national legal encyclopedias that broadly cover the topic of Banking Law. The various aspects of Banking Law are reviewed with footnote references to case law, statutes, regulations and other primary sources. Both encyclopedias, *American Jurisprudence 2d* (*Am Jur 2d*) and *Corpus Juris Secundum* (*CJS*) offer an overview of Banking Law topics from a multi-jurisdictional perspective.

American Jurisprudence 2d, West Pub., Location: Floor 3 (Encyclopedia Wall).

- Am. Jur. 2d Banks & Financial Institutions Vols. 10 & 11

Corpus Juris Secundum (*CJS*), West Pub., Location: Floor 3 (Encyclopedia Wall)

- 9 C.J.S. Banks & Banking Sec. 1 - 782

B. New York Encyclopedia

New York Jurisprudence 2nd, West Publishing KFN5065. N48 Floor 3 (Reference Wall)

This encyclopedia covers a broad range of legal issues pertaining to New York Banking Law. Banking Law matters are discussed under the subject of *Banks & Financial Institutions* in volumes 9 and 10 of *New York Jurisprudence 2nd*. These two volumes offer a topical treatment of such matters as: banking institutions, ATMs, deposits, withdrawals, payments, check problems, powers and duties of bank officers, etc. All topics discuss principles of law and provide citations to supporting cases, statutes, regulations, and cross references to other law sources.

C. Electronic Resources:

BNA's Banking Daily and Banking Report – accessible from the law library's web page under "Electronic Resources." Click on "Topical Resources" and then "Bureau of National Affairs." Check with a reference librarian for access and use of this resource.

FINDING TOOLS

A. Online Catalog:

SUMMIT is Syracuse University's online catalog. It should be searched when you want to find books and treatises, loose-leaf services, and journal titles and their locations. It can be searched in a variety of ways: by keyword, author, title, journal title, or subject.

Researchers can use Summit to find specific practice titles by using keyword search queries: For example:

“Commercial Litigation” +”New York State Courts” “New York Practice”

+Commercial

Sample Titles:

- *Commercial Litigation in New York State*, (Thomson/West 2005) 4 vol. KFN5225 .C65 2005
- *New York Practice Guide: Business and Commercial*, M. Bender, KFN5337 .N48

B. Legal Periodical Indexes: (Print & Electronic)

Legal periodical indexes are used to find citations to articles in law related periodicals such as law reviews, bar journals, and legal newspapers. The library offers access to a number of print and online periodical indexes. Check with a reference librarian for access to these resources.

1. *Index To Legal Periodicals & Books*, Wilson & Co., Floor 3
 - Allows researchers to locate relevant articles by keyword, author, title or subject searching
 - Coverage in the print version is much greater than in the electronic version.
 - Online version (1980-) is available via Law Library's Electronic Resources Web Page. Check with reference librarian for assistance in accessing this resource.

"Typical Banking Law" journals and periodicals cited in the ILP and available in the Law Library include: (Floor 2 Unclassified)

- ABA Banking Journal
- Annual Review of Banking Law
- Banking & Finance Law Review
- The Banking Law Journal
- FDIC Banking Review
- Federal Reserve Bulletin
- Journal of International Banking Law

C. General Reference Sources

A Dictionary of Finance and Banking, 2nd Ed. HG151 .D54 1997 (online resource)

Banking Terminology, 3rd Ed. HG151 .B268 1989 Bird-Reference, 1st Floor (does not circulate)

Glenn Munn, *Encyclopedia of Banking and Finance* 8th Ed. HG151 .M8 1983

The New Palgrave Dictionary of Money and Finance HG151 .N48 1992

Michael G. Hales, *The Language of Banking: Terms and Phrases Used in the Financial Industry* HG151 .H345 1994 Bird-Safire Room, 6th Floor

D. Other Useful Sources To Consult:

Federal Yellow Book, Floor 3 JK 6 .F45

State Yellow Book, Floor 3 JK 2403 .S755

Doyle: Searching the Law, 2 vol. 4th Ed. KF 1 .D69 2003.

ONLINE & INTERNET

Legal Information Institute: (LII) <http://www.law.cornell.edu>

This is a useful website for Banking Law resources. The LII, in its “Law about” section provides a useful overview of the topic of Banking. The overview includes links to state statutory material. Please note that the statutes found on this site are not annotated as in the print sources..

Federal Agencies

Federal Deposit Insurance Corporation <http://www.fdic.gov/>

U.S. Treasury Department <http://www.ustreas.gov/>

Federal Reserve Board <http://www.federalreserve.gov/>

Federal Reserve System's National Information Center of Banking Information
<http://www.ffiec.gov/nic/default.HTM>

Miscellaneous Web Sites

American Bankers' Association <http://www.aba.com/default.htm>

American Banker Online <http://www.americanbanker.com/>

bankinfo.com <http://www.bankinfo.com/>

BankWeb <http://www.bankweb.com/>

Conference of State Bank Supervisors <http://www.csbsdal.org/>

Fannie Mae <http://www.fanniemae.com/>

The World Bank Group <http://www.worldbank.org/>

BIBLIOGRAPHY

In addition to the various titles mentioned in this guide, the following is a short list of other titles that are found in the law library’s collection.

Banking Law Primary Source, (M. Bender, 1986-) KF974 .B371 (Last updated February 2002).

Budnitz, Mark E., *Consumer Banking And Payments Law: Credit, Debit & And Stored Value Cards; Checks; Money Orders; E-Sign; Electronic Banking And Benefit Payments*, with CD-ROM /, 2nd ed., (National Consumer Law Center 2002) KF974 .B83 2002

Bailey, Henry J. and Richard B. Hagedorn, *Brady on Bank Checks: The Law of Bank Checks* Rev. ed. (Warren, Gorham & Lamont 1999) KF960 .B7 1999

Baker, Donald I. & Roland E. Brandel, *The Law of Electronic Fund Transfer Systems* 2nd ed. (Warren, Gorham & Lamont 1988) KF1030.E4 P46 1988

Clark, Barkley & Barbara Clark, *The Law of Bank Deposits, Collections, and Credit Cards* (Warren, Gorham & Lamont 1995) KF1022 .C4 L38

Dolan, John F. *The Law of Letters of Credit: Commercial and Standby Credits*. 2nd ed. (Warren, Gorham & Lamont 1991) KF1028 .D65

Encyclopedia of Banking Laws; A Comprehensive Digest Of Federal And State Banking Laws. (Boston, Banking Law Journal 1964) (with supplements) KF965 .B25 1964

Federal Banking Law Reporter (Commerce Clearing House) KF971.5 .F424

Financial services modernization: analysis of the Gramm-Leach-Bliley Act of 1999, (Matthew Bender, 2000) KF969.558 .F56 2000

Graham, Ann, et al., *Banking Law*, (Matthew Bender 1981) KF KF974 .B37

McCoy, Patricia A., ed., *Banking Law: Financial Modernization After Gramm-Leach-Bliley*, (LexisNexis, 2002) KF974 .B35 2002

Lovett, William Anthony, *Banking and Financial Institutions Law in a Nutshell* /, 2nd Ed. (West Group, 2001) KF975 .L68 2001

Malloy, Michael P., *Bank Regulation*, (West Group, 1999) KF974 .M33 1999

Malloy, Michael P., *Banking Law and Regulation*, (Aspen Law & Business, 1994-) KF974 .M34

Michie on Banks and Banking. (Michie Company 2004 update) KF969 .M531

White, James & Robert S. Summers *Uniform Commercial Code*, 4th ed. (West Group 2000) KF890 .W45 2000