



Texas  
Credit Union  
Association

A Government Relations Division of Cornerstone

2023



# TEXAS LEGISLATIVE SUMMARY



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## Governmental Affairs Subcommittee Members

Adrian Alejandre, SVP Lending  
Education Credit Union

Chris Hutson, President/CEO  
Texas Tech Federal Credit Union

David Bleazard, President/CEO (Chair)  
First Service Credit Union

Crystal Long, President/CEO  
GECU Federal Credit Union

David Courreges, Senior Corporate Counsel  
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Randolph-Brooks Federal Credit Union

Brenda Tristan, Government and Industry  
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American Airlines Federal Credit Union

Dale Hansard, President/CEO (Vice Chair)  
Caprock Federal Credit Union

Peggy Zahler, Board of Directors  
Wellby Financial Credit Union



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# WELCOME

## Dear League Member,

Welcome to the 2023 Legislative Summary for Texas. This report provides a concise review of the political environment and easily digestible summaries of the pertinent bills that may affect your credit union.

Many people deserve our thanks for their contributions over the past session. First, we are grateful to you, our member credit unions, for your support and for getting involved in advocacy. We are also grateful for the work of the Texas Governmental Affairs Subcommittee who offered valuable input during the legislative session.

Our advocacy team at the Texas Credit Union Association in Austin, with lobbying efforts led by Executive Director Gili Carter and bill review led by Regulatory Compliance Counsel Suzanne Yashewski, deserves high praise all around. These dedicated professionals analyzed thousands of bills and devoted many long, often late-night hours to legislation moving from one chamber to the other. The team also kept credit unions well-informed via the weekly Texas Legislative Reporter, a glimpse into the inner workings of the legislative session and priority bills.

Cornerstone League is a recognized leader in the movement. Our commitment to the financial well-being, growth, relevance, and sustainability of your credit union in our new five-state association is stronger than ever. Thank you for your support, confidence, and trust, and for your membership.

Sincerely,



Caroline Willard  
President/CEO  
Cornerstone League



Jim Phelps  
Executive VP, Chief Advocacy Officer  
Cornerstone League



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# EXECUTIVE SUMMARY

**Dear Texas Credit Union Leader,**

On behalf of the Texas Credit Union Association, I am pleased to present this 2023 Legislative Summary.

The 88th Session of the Texas Legislature's regular session began Jan. 10, 2023, and adjourned Sine Die on May 29. After the unique challenges we faced during the 87th Legislature, it was back to business with an open capitol and a full legislative agenda for both GOP-controlled chambers and Gov. Greg Abbott.

To describe the 88th Legislature as contentious would be an understatement. The leaders of the House and Senate were at odds with each other holding bills "hostage" due to disagreement on priority issues, especially property tax relief and public education. Hence, the 2023 Texas legislative session [came to a dramatic end](#) when tense negotiations on property taxes and border issues between lawmakers broke down at the last minute, leading Abbott to call for an [immediate special session](#) to deal with those two issues.

The governor also announced "many critical items remain" that the legislature needs to address and that he would call for multiple special sessions. Consequently, there were a plethora of important bills that were collateral damage and died. To add to the combative legislative environment, the Texas House of Representatives overshadowed critical legislation in the final days of session with the impeachment of Texas Attorney General Ken Paxton. The impeachment date is set for Sept. 5, 2023

More than 8,200 bills were filed this session, breaking the record for the largest number of bills filed in one session. TXCUA's team tracked and analyzed over 458 bills and identified 178 bills as high priority. Of the 458 bills flagged, 63 passed both chambers and were sent to the governor for signature. No bills deemed to be of high importance to TXCUA were vetoed.

Our legislative priorities for this past session were:

- » Defend and mitigate regulatory burdens on credit unions.
- » Protect lienholder interests, including the dealership financing issue and tow truck/VSF notifications.
- » Pursue measures to favorably modify data security.
- » Defend the franchise tax exemption for credit unions.
- » Maintain independent credit union regulator.

Although it was a treacherous session for most, our accomplishments are a true testament to our credit union members as we fought for our priorities. Through our amazing grassroots programs, action alerts, and member outreach, we successfully stopped a critical interchange bill and helped pass a top priority bill regarding data security.



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## EXECUTIVE SUMMARY (cont.)

SB 1464 by Sen. Royce West (D-Dallas), the car dealer captive financing bill, came remarkably close to reaching the finish line. Without the overwhelming and immediate responses of our credit union network, the engagement of members and testimony in key committee hearings, the bill would most likely never have gotten as far as it did. Bills often take more than one session to become law, and we expect to see this bill again next session.

The Texas Governmental Affairs Committee did excellent work reviewing legislation and proposed regulations. Committee members provided insight into how these proposals would impact credit unions and gave recommendations on ways to improve them. We appreciate the work of the credit union volunteers serving on the subcommittee which included Chairman Dave Bleazard, Vice Chairman Dale Hansard, Adrian Alejandre, David Courreges, Cameron Dickey, Yvonne De La Rosa-Flores, Ron Fox, Sal Guerrero, Chris Hutson, Crystal Long, Kent Lugrand, Tim Miller, Laura Roberts, Kay Rankin-Swan, Brenda Tristan, and Peggy Zahler.

Our outstanding team worked diligently to ensure that credit unions' priorities were advanced, and I want to thank our team for their exceptional work and dedication during this challenging session. Special thanks to Regulatory Compliance Counsel Suzanne Yashewski, Legislative and Regulatory Director Charlotte Spencer, Associate Regulatory Compliance Counsel Nathan Behncke, and Advocacy Operations Manager April Krause. I would be remiss if I did not also thank our outside legislative consultants Larry Gonzales and Robert Howden for their hard work, diligence, perseverance.

Please feel free to contact me with any questions. We appreciate the trust you place in us and are proud to represent our Texas credit unions at the Texas Capitol. Hats off to all our credit union members that stepped up and helped the Texas Legislature hear our voice.

Best always,



Gilianne "Gili" Carter  
Executive Director  
Texas Credit Union Association



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# Priority Bills

## ACCOUNTS

**Senate Author:** Hughes, Bryan

**House Sponsor:** Smithee, John

**Caption:** Relating to decedents' estates and the delivery of certain notices or other communications in connection with those estates or multiple-party accounts.

**Statute:** Estates Code

**Summary:** The bill adds sections to the Estates Code pertaining to multi-party accounts. The definition of account is changed to include not only a contract for deposit of funds, but also for securities such as stocks, bonds, and mutual funds. The term "sums on deposit" would also be modified to include the same terms, so that stocks, bonds, and mutual funds could be transferable from an account held by a financial institution.

The bill allows a person that would otherwise be disqualified due to a felony conviction to serve as executor for a deceased person as long as the person is named in the deceased person's will, is otherwise qualified to serve as executor, and the court approves of the appointment.

The bill also updates various provisions in the Estates Code to account for additional delivery methods to certified mail, which include hand delivery by courier, certified and registered mail, and private delivery service with proof of delivery. The term "qualified delivery method" is used to describe these methods.

Among several conforming changes, an addition to Section 113.251(c) of the Estates Code would require banks to send notice by these "qualified delivery methods" when an account is pledged as security for a loan to any person on the account that is not named on the loan. This notice requirement does not impact credit unions, as the section mandates the requirement only for FDIC-insured institutions.

**CU Action Required:** Credit unions that opt to use multi-party account forms to establish accounts to hold securities would need to update those forms. This expansion of accounts would not necessarily be in place of other offerings nor would it mandate any credit union to offer these kinds of accounts if they did not have the necessary staffing or sophistication.

**Effective Date:** 09/01/23



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## DATA BREACH

### SB 768

**Senate Author:** Parker, Tan

**House Sponsor:** Capriglione, Giovanni

**Caption:** Relating to the process for notifying the attorney general of a breach of security of computerized data by persons doing business in this state.

**Statute:** Business and Commerce Code

**Summary:** Current law requires a business to report a data breach to the attorney general's office within 60 days. The bill amends current law to shorten this timeframe. Under the revised law, a credit union must now report a breach as soon as practicable but no later than 30 days after the breach is discovered.

The bill also requires that the notification be submitted electronically using a form on the attorney general's website.

**CU Action Required:** Credit unions should update policies relating to data breaches to ensure the notification is made in a timely manner on the new electronic form.

**Effective Date:** 09/01/23

## DATA COLLECTION

### SB 2105

**Senate Author:** Johnson, Nathan

**House Sponsor:** Holland, Justin

**Caption:** Relating to the regulation of third-party data collection entities.

**Statute:** Business & Commerce Code

**Summary:** The bill requires business entities whose primary source of revenue is the collection, processing, or transferring of personal data that the entity did not collect directly from the individual linked to the data, to register with the state as a data broker. The threshold for coverage under the bill is a broker that derives more than 50% of revenue from broker activities over a 12-month period for processing or transferring the personal data of more than 50,000 individuals.

The bill exempts credit unions and other financial institutions subject to Title V of the Gramm-Leach-Bliley Act, as well as certain other entities such as service providers, government entities, and credit reporting agencies.



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Registered entities would be included in a searchable registry maintained by the secretary of state.

The bill also mandates that data brokers implement a comprehensive security program to protect consumer information and provides a civil penalty for entities that fail to register with the state.

**CU Action Required:** None. Credit unions and CUSOs (under common ownership by the credit union) are exempt under the bill.

**Effective Date:** 09/01/23

## DEBT CANCELLATION

**HB 2746**

**House Author:** Thompson, Ed

**Senate Sponsor:** Menendez, Jose

**Caption:** Relating to the requirements related to refunds and credit provided under terminated debt cancellation agreements.

**Statute:** Finance Code

**Summary:** The bill will address the problem of credit unions engaged in indirect auto lending having to refund money tied to a debt cancellation agreement termination rather than the party that received the payment.

Under the revised law, a credit union that did not receive the fee will merely need to provide written notice to the administrator and the auto dealer within 30 days after the debt cancellation agreement terminates.

**CU Action Required:** Credit unions engaged in indirect lending will need to train staff to provide the appropriate notice in a timely manner after a member terminates a debt cancellation agreement early.

**Effective Date:** 09/01/23

## DEBT COLLECTION

**HB 4635**

**House Author:** Guillen, Ryan

**Senate Sponsor:** Flores, Pete

**Caption:** Relating to organized crime, racketeering activities, and collection of unlawful debts.



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**Statute:** Penal Code, Code of Criminal Procedure, Civil Practices Code, Property Code

**Summary:** The bill amends current law relating to organized crime, racketeering activities, and collection of unlawful debts; provides a civil penalty and creates criminal offenses. The bill seeks to strengthen the legal tools in the evidence-gathering process by establishing new penal prohibitions and providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

Of interest to credit unions is a new chapter 72, Penal Code, titled, “Racketeering and Unlawful Debt Collection.” The definition of “unlawful debt” includes violations of Subtitle A, Title 4, Finance Code or Section 11, Article XVI, Texas Constitution relating to interest and usury if the usurious rate is at least twice the enforceable rate.

**CU Action Required:** Credit unions are encouraged to review policies and procedures regarding lending interest rates and usury law to ensure they don’t inadvertently get pulled into this law with criminal repercussions at the felony level.

**Effective Date:** 09/01/23

## DIGITAL ASSETS

**HB 1666**

**House Author:** Capriglione, Giovanni

**Senate Sponsor:** Schwertner, Charles

**Caption:** Relating to the commingling of funds by digital asset service providers.

**Statute:** Finance Code

**Summary:** The bill adds a new chapter to the Finance Code concerning digital asset service providers. The term “digital asset service provider” is defined as an electronic platform that facilitates the trading of digital assets on behalf of a digital asset customer and maintains custody of the customer’s digital assets.

The new law applies to a digital asset service provider doing business in Texas that holds a money transmission license and either: 1) serves more than 500 digital asset customers in Texas, or 2) has at least \$10 million in customer funds. The new law will prohibit the commingling of customer funds among other requirements to ensure consumer funds are secure and protected.

**CU Action Required:** Although the new law does not directly impact credit unions, credit unions are encouraged to learn more about the developing field of cryptocurrencies and digital assets, as it will certainly impact the industry.

**Effective Date:** 09/01/23



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## EMPLOYMENT

### HB 567

**House Author:** Bowers, Rhetta

**Senate Sponsor:** Miles, Borris

**Caption:** Relating to discrimination on the basis of hair texture or protective hairstyle associated with race.

**Statute:** Labor Code

**Summary:** Referred to as “The Crown Act,” the bill prohibits an employer from adopting or enforcing a policy that discriminates against hair texture or a protective hairstyle commonly or historically associated with race. “Protective hairstyle” includes braids, locks, and twists.

The bill also clarifies that employment discrimination because of or based on race includes discrimination based on hair texture or protective hairstyle.

**CU Action Required:** Credit unions should review dress or grooming policies to ensure they do not discriminate. Credit unions should also train managers to ensure they do not discriminate based on hair texture or protective hairstyle.

**Effective Date:** 09/01/23

### HB 915

**House Author:** Craddick, Tom

**Senate Sponsor:** Parker, Tan

**Caption:** Relating to the creation of a workplace violence hotline and a requirement that employers post notice regarding the hotline.

**Statute:** Labor Code

**Summary:** The bill requires employers of any size to post a notice to employees of the contact information for reporting instances of workplace violence or suspicious activity to the Department of Public Safety. The notice must be posted conspicuously in the place of business, in sufficient locations to be convenient for all employees to see it, and must be posted in both English and Spanish. The Texas Workforce Commission will develop the form to be displayed.

**CU Action Required:** Credit unions need to display the new notice at every branch.

**Effective Date:** 09/01/23



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**SB 1518****Senate Author:** King, Phil**House Sponsor:** Guillen, Ryan

**Caption:** Relating to the establishment of a terrorist offender registry and to the supervision of those terrorist offenders.

**Statute:** Code of Criminal Procedure, Government Code, Penal Code

**Summary:** The bill creates a terrorist registry for persons convicted of committing crimes that the statute deems to be terroristic in nature or that qualifies as terroristic under similar laws in another jurisdiction or under the Uniform Code of Military Justice. Covered persons would be required to register upon exit of a prison sentence or applicable release program.

The registry would be kept in a central database and not subject to disclosure under state public information law. State agencies would be permitted to use the database to disqualify registered persons for certain state licenses. This registry database would be maintained by the Department of Public Safety.

The bill defines what is considered a terroristic offense, which includes providing material support or resources to commit an offense considered terroristic. Material support or resources includes providing currency or other financial securities, financial service, or other instruments of value.

Persons required to register would have similar requirements to reregister or register in another jurisdiction within a certain time after relocating, either temporarily or permanently. Registration requirements include submission of a DNA sample. Failure to register would be a third-degree felony. Removal from the list requires a court order.

**CU Action Required:** Since information in the central database is not requestable by non-licensing agencies, credit unions would not be able to request this information unless the person provided it voluntarily or if a person was refused registration by a state agency pertinent to credit union operations due to inclusion on the list. Therefore, it would not be accessible on request by a credit union to determine if a person is bondable or not or if it posed a greater account or loan risk.

This bill could disqualify certain persons for employment as a loan originator, notary, or other position that requires registration if a licensing agency refuses to issue a license based on inclusion on the list. Ineligibility would need to be determined by that licensing agency.

Nothing in the bill prevents a credit union from asking potential employees about terrorist registration during the application process, although a felony conviction would likely appear in a standard background check.

**Effective Date:** 09/01/23



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## FINANCIAL LITERACY

### SB 1379

**Senate Author:** Parker, Tan

**House Sponsor:** Lujan, John

**Caption:** Relating to a pilot program to increase the financial independence of foster children who are transitioning into independent living.

**Statute:** Family Code

**Summary:** The bill creates a pilot program that assists foster youth in opening checking and savings accounts at financial institutions. The objective of the program is to help foster youth achieve financial security and ease the transition to independent living.

The bill orders the Department of Family and Protective Services (Department) to enter into an agreement with one or more credit unions, banks, or other financial institutions to establish saving and checking accounts for foster youth between the ages of 14 and 21 years. The foster youth must have sole ownership rights in the account, and the account must be set up to exclude any maintenance, overdraft, insufficient funds, or other penalty fees.

As part of the program, the Department may enter into agreements with partners to provide matching funds to any deposits made by the foster youths.

**CU Action Required:** Credit unions involved in the program will need to structure accounts that meet program requirements, as well as devote the appropriate staff and technological resources.

**Effective Date:** 09/01/23

## FORECLOSURE

### SB 62

**Senate Author:** Zaffirini, Judith

**House Sponsor:** Guillen, Ryan

**Caption:** Relating to posting certain documents and information related to certain real property sales on a county's internet website.

**Statute:** Property Code, Tax Code

**Summary:** The bill requires a county to post a notice of sale related to a foreclosure on the county's website. The county must include the date, time, and location of the sale.



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The bill also amends the Tax Code to require the county assessor-collector for each applicable county to post on the county's website the form a person must use in that county to request a statement of whether there are any delinquent taxes owed by the person to that county or to a school district or municipality having territory in that county, except that if the county assessor-collector permits a person to use a form prescribed by the comptroller of public accounts for that purpose, the county assessor-collector may post a link to the location on the comptroller's website where the form may be viewed instead of posting the form.

**CU Action Required:** None.

**Effective Date:** 09/01/23

## FRAUD

### HB 1195

**House Author:** Holland, Justin

**Senate Sponsor:** Hall, Bob

**Caption:** Relating to the authority of a county to require photo identification to file certain documents with the county clerk.

**Statute:** Local Government Code

**Summary:** The bill amends current law relating to the authority of certain county and district clerks to obtain and retain information that identifies a person filing a document or requesting services.

Currently, in a county with a population under 800,000, someone can fraudulently file a deed to a property he/she does not own without presenting an ID to the county clerk. By forging a signature and getting a notary to stamp and sign the property document, one can fraudulently assume ownership of a property. A public notary is required to validate one's identity, but if the person committing the fraud is a notary, the crime is easily accomplished. The bill helps to fix this problem.

**CU Action Required:** None.

**Effective Date:** Immediately.



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## IDENTITY THEFT

### SB 761

**Senate Author:** Hughes, Bryan

**House Sponsor:** Lambert, Stan

**Caption:** Relating to photo identification for certain debit or credit card transactions.

**Statute:** Business & Commerce Code.

**Summary:** Chapter 508 of the Business & Commerce Code permits a merchant to require a photo identification of a person using a debit or credit card in a point-of-sale transaction to verify identity. The chapter was set to expire in September 2023

The bill removes the expiration date. As a result, merchants may continue to require photo identification for card transactions going forward.

**CU Action Required:** None.

**Effective Date:** Immediately.

## LENDING

### HB 2706

**House Author:** Shine, Hugh

**Senate Sponsor:** Zaffirini, Judith

**Caption:** Relating to the regulation of manufactured homes.

**Statute:** Occupations Code

**Summary:** The bill amends current law relating to the regulation of manufactured homes. The bill provides clarity and helps Texas law conform to updated federal regulation. The changes are intended to simplify the inventory lien perfection process.

For a lien on manufactured home inventory, current law states that one must file the lien with the Texas Department of Housing and Community Affairs on a required form. The bill amends this language to require the filing of a financing statement in accordance with Section 9.310 of the Business & Commerce Code and other provisions of that code concerning security interests for inventory.

**CU Action Required:** Credit unions that secure loans with manufactured home inventory should be aware of the new requirements to perfect their security interest in the collateral and should update policies and procedures as needed.

**Effective Date:** 09/01/23



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## LITIGATION

### HB 19

**House Author:** Murr, Andrew

**Senate Sponsor:** Hughes, Bryan

**Caption:** Relating to the creation of a specialty trial court to hear certain cases.

**Statute:** Government Code

**Summary:** The bill creates a new court to resolve complex business disputes. The new court will streamline business disputes and ensure the court is staffed by qualified and skilled judges. The business court will have jurisdiction over some litigation involving credit unions.

**CU Action Required:** None.

**Effective Date:** 09/01/23

### HB 4142

**House Author:** Thompson, Ed

**Senate Sponsor:** Birdwell, Brian

**Caption:** Relating to the award of attorneys' fees in an action to enforce a motor vehicle mortgagee's lien.

**Statute:** Property Code

**Summary:** Under current law, a lienholder has a lien on proceeds for a claim when a loss is attributable to the negligence of a person other than the debtor. However, some insurance companies may exclude lienholders on settlement checks for smaller claims when the costs of litigation exceed the recoverable amount, often because it is not in the interest of the injured party to file suit. For example, if a loss is only \$2,000, filing a claim is not financially feasible as attorney fees and court costs would exceed the amount of the claim. This may result in insurance companies ignoring their obligations and lienholders suffering losses, which causes higher costs of borrowing for everyone.

The bill seeks to address this issue by entitling the prevailing party in an action to enforce a motor vehicle mortgagee's lien to recover reasonable attorneys' fees. This change would incentivize insurers to meet their obligations under current law, and insurers who do not meet their obligations would make the injured party whole for the harm they caused.

**CU Action Required:** None.

**Effective Date:** 09/01/23



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## MORTGAGE/REAL ESTATE

### HB 219

**House Author:** Noble, Candy

**Senate Sponsor:** Johnson, Nathan

**Caption:** Relating to the release of a deed of trust or other contract lien securing a home loan after payoff by mortgagor.

**Statute:** Finance Code

**Summary:** The bill amends chapter 343 of the Finance Code from which credit unions are exempt.

The bill amends the Finance Code to require a mortgage servicer or mortgagee, not later than the 60th day after receiving the correct payoff amount for a home loan from a mortgagor, to deliver to the mortgagor a release of lien for the home loan or file the release of lien with the appropriate county clerk's office for recording in the county's real property records. If, on or before the 20th day after the payoff date, the mortgagor delivers a written request to the mortgagee or mortgage servicer for the release of lien to be delivered to the mortgagor or filed with the county clerk, the mortgagee or mortgage servicer must do so not later than the 30th day after the date the request is received.

**CU Action Required:** No action is required because credit unions are exempt from this portion of the Finance Code. That said, credit unions are encouraged to voluntarily update policies to reflect these changes.

**Effective Date:** 09/01/23

## NOTARY

### SB 1780

**Senate Author:** Parker, Tan

**House Sponsor:** Capriglione, Giovanni

**Caption:** Relating to online notarizations.

**Statute:** Government Code

**Summary:** The bill amends the Government Code concerning online notarizations to permit online notaries to take acknowledgments on paper documents, including wet ink signatures. Online notaries will also be able to administer oaths and affirmations as notarial acts consistent with procedures in the bill.

The bill also outlines the methods by which an online notary verifies parties involved in the online notarization and verifies the document being signed. Online acknowledgments must include a notarial



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certificate indicating whether a wet ink signature or electronic signature was used along with a statement indicating an online notarization occurred. Online notaries will need to include an image of their physical official seal on any online acknowledgment on a paper document.

**CU Action Required:** The bill will allow credit unions additional flexibility in the way that documents may be notarized, including those used for loan documents. This will help facilitate lending through remote means or in situations where all parties cannot be present at the same location.

**Effective Date:** 01/01/24

## PANDEMIC

### SB 29

**Senate Author:** Birdwell, Brian

**House Sponsor:** Lozano, Jose

**Caption:** Relating to prohibited governmental entity implementation or enforcement of a vaccine mandate, mask requirement, or private business or school closure to prevent the spread of COVID-19.

**Statute:** Health and Safety Code

**Summary:** The bill amends the Health and Safety Code to add a new chapter titled, "Prohibited Coronavirus Preventative Measures." The new law prohibits the state, local government, state and local agencies, and open enrollment charter schools from implementing a mask mandate or requiring vaccination to prevent the spread of COVID-19. The new law also prohibits these entities from requiring the closure of a private business or school to prevent the spread of COVID-19.

**CU Action Required:** None.

**Effective Date:** 09/01/23

## PAYMENTS

### HB 2837

**House Author:** Schaefer, Matt

**Senate Sponsor:** Schwertner, Charles

**Caption:** Relating to prohibiting financial institutions in Texas from surveilling, reporting, or tracking the purchase of firearms and ammunition.

**Statute:** Business & Commerce Code



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**Summary:** The bill amends the Business & Commerce Code to prohibit a person or entity involved in facilitating or processing an electronic payment transaction, including a payment card issuer or payment card network, from assigning a firearms code to a merchant or requiring a merchant to use a firearms code.

For the purposes of the sale of firearms, ammunition for use in firearms, and firearms accessories, the bill prohibits a firearms retailer from providing a firearms code to a payment card issuer or payment card network and limits the retailer to using or being assigned a merchant category code for “general merchandise retailers” or “sporting goods retailers.” The bill establishes that any agreement or contractual provision to the contrary is void. The bill requires a payment card issuer or payment card network to notify the payment card holder in writing on every occasion that a firearms code is assigned to an electronic payment transaction on the payment card holder’s account.

The bill requires the attorney general, if the attorney general has reasonable cause to believe that a person or entity has engaged in, is engaging in, or is about to engage in a violation of the bill’s provisions, to issue a civil investigative demand. The bill makes the procedures established for the issuance of a civil investigative demand under the Texas Free Enterprise and Antitrust Act of 1983 applicable to the same extent and manner to the issuance of a civil investigative demand under the bill’s provisions. The bill authorizes the attorney general to request, pursuant to such a demand issued under the bill’s provisions, that a person or entity disclose any data that is relevant to an investigation conducted by the attorney general. The attorney general is required to evaluate the data for compliance with the bill’s requirements regarding the use or assignment of a firearms code.

The bill requires the attorney general to give written notice to a person or entity identifying the specific provisions of the bill that are or were being violated not later than the 30th day before bringing an action to recover a civil penalty and restrain or enjoin a person or entity for violating the bill’s provisions, as required by the bill. The bill prohibits the attorney general from bringing an action against a person or entity who does the following:

- » cures the identified violation within the 30-day period; and
- » provides the attorney general a written statement affirming that the person or entity has cured the violation, provided supporting documentation to show how the violation was cured, and made changes to internal policies to prevent the recurrence of any similar violation in the future.

The attorney general may assess civil penalties in the amount of \$10,000 per violation if the violation is not timely cured. The attorney general may recover reasonable attorneys’ fees and other reasonable expenses incurred in investigating and bringing an action to recover that penalty and restrain or enjoin the person or entity violating the bill’s provisions. The bill requires the attorney general to deposit a civil penalty collected under these provisions in the state treasury to the credit of the general revenue fund.

The bill authorizes a person who has used a payment card to purchase a firearm, ammunition for use in a firearm, or a firearm accessory to bring an action against a payment card issuer or payment card network to obtain either of the following:



- » a declaratory judgment under the Uniform Declaratory Judgments Act that the payment card issuer or payment card network has violated the bill's provisions regarding the use or assignment of a firearms code; or
- » a judgment enjoining the payment card issuer or payment card network from violating those provisions.

The bill prohibits its provisions from being construed as providing a basis for, or being subject to, a private right of action for a violation of its provisions or any other law, except as provided by the bill. The bill further establishes that, except for the private right of action authorized by the bill, the attorney general has exclusive authority to enforce the bill's provisions.

The bill applies only to purchases of a firearm, ammunition for use in a firearm, or a firearm accessory that takes place on or after the bill's effective date.

**CU Action Required:** Credit unions must update policies and train staff to ensure a "firearms code" is not used when processing payments.

**Effective Date:** 09/01/23

## POWERS OF ATTORNEY

### SB 1650

**Senate Author:** Parker, Tan

**House Sponsor:** Smithee, John

**Caption:** Relating to durable powers of attorney and the construction of certain powers conferred in those durable powers of attorney.

**Statutes:** Estates Code, Property Code

**Summary:** The bill makes several changes pertaining to durable powers of attorney. Several changes are clarifications requiring that a principal be an adult individual, that the determination of disability or incapacitation applies to an individual only, and that the person empowering an agent through durable power of attorney be an individual.

The bill defines situations under which court involvement through a guardianship appointment impacts the validity of a durable power of attorney, including revocation or suspension of a power of attorney when a permanent or temporary guardian is appointed, respectfully.

The bill also expands powers available to an agent when making decisions on behalf of a business entity or a person's interest in an entity.



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**Credit Union Impact:** Credit union staff may need to ask additional questions or request additional documentation when an agent presents a durable power of attorney and there is court involvement in the determination of a person's capability or competency. These items are included in the statutory form certification of agent, but credit unions should confirm with the agent that there is no court action pending.

**Effective Date:** 09/01/23

## PREEMPTION

### HB 2127

**House Author:** Burrows, Dustin

**Senate Sponsor:** Creighton, Brandon

**Caption:** Relating to state preemption of certain municipal and county regulations.

**Statute:** Finance Code, Business & Commerce Code, Labor Code, Property Code, etc.

**Summary:** The bill amends the Agriculture Code, Business & Commerce Code, Finance Code, Insurance Code, Labor Code, Natural Resources Code, Occupations Code, and Property Code to preempt the municipal and county regulation of conduct in a field of regulation occupied by a provision of those codes, unless expressly authorized by another statute. The bill renders void and unenforceable and deems inconsistent with the referenced codes any ordinance, order, or rule in violation of the state preemption established by the bill.

The bill establishes an exception to its preemption provisions in the Finance Code by providing that a municipality or county may enforce or maintain an ordinance, order, or rule regulating any conduct under Finance Code provisions related to credit services organizations or any conduct related to a credit services organization or a credit access business, as those terms are defined by the Finance Code that was adopted before Jan. 1, 2023, and would have been valid under the law as it existed before the date of preemption under the bill. This will permit current local regulation of payday lenders to stay in place.

The bill specifies that, for purposes of the preemption provided for under the Labor Code, a field occupied by a provision of the code includes employment leave, hiring practices, breaks, employment benefits, scheduling practices, and any other terms of employment that exceed or conflict with federal or state law for employers other than a municipality or county.

The bill amends the Civil Practice and Remedies Code to grant standing to any person, or a trade association representing the person, who has sustained an injury in fact, actual or threatened, from a municipal or county ordinance, order, or rule adopted or enforced by a municipality, county, or municipal or county official acting in an official capacity that is in violation of the bill's preemption provisions or the bill's limitation on municipal regulation of licensed animal businesses to bring an action against the municipality, county, or official. The bill provides the following with respect to such an action:



- » a municipality or county is entitled to receive notice of a claim against it not later than three months before the date a claimant files the action and the notice must reasonably describe the injury claimed and the ordinance, order, or rule that is the cause of the injury;
- » the claimant may bring the action in one of the following venues:
  - o the county in which all or a substantial part of the events giving rise to the cause of action occurred;
  - o if the defendant is a municipality or municipal official, a county in which the municipality is located or a county contiguous to a county in which the municipality is located; or
  - o if the defendant is a county or county official, a county contiguous to the county;
- » an action brought in an authorized venue may not be transferred to a different venue without the written consent of all parties;
- » a claimant is entitled to recover declaratory and injunctive relief and costs and reasonable attorneys' fees;
- » governmental immunity of a municipality or county to suit and from liability is waived to the extent of liability created by the bill's provisions; and
- » official and qualified immunity may not be asserted as a defense in the action.

For purposes of these provisions, "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, agency or instrumentality, public corporation, any legal or commercial entity, or protected or registered series of a for-profit entity. These provisions apply only to a cause of action that accrues on or after the bill's effective date.

**CU Action Required:** None.

**Effective Date:** Immediately.

## PRIVACY

### HB 4

**House Author:** Capriglione, Giovanni

**Senate Sponsor:** Hughes, Bryan

**Caption:** Relating to the regulation of the collection, use, processing, and treatment of consumers' personal data by certain business entities.

**Statute:** Business & Commerce Code

**Summary:** The bill enacts the "Texas Data Privacy and Security Act." The bill amends current law relating to the regulation of the collection, use, processing, and treatment of consumers' personal data by certain business entities and imposes a civil penalty. It aims to maximize both the utility of the rights provided to consumers and interoperability with other states to minimize compliance costs for businesses.



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The bill exempts credit unions and other financial institutions and data subject to the Gramm-Leach-Bliley Act. The bill also exempts “small businesses” as defined by the United States Small Business Administration, except that it states that a small business may not engage in the sale of personal data that is sensitive data without receiving prior consent from the consumer.

**CU Action Required:** None.

**Effective Date:** 07/01/24

## **HB 18**

**House Author:** Slawson, Shelby

**Senate Sponsor:** Hughes, Bryan

**Caption:** Relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services.

**Statute:** Business & Commerce Code

**Summary:** The bill establishes the Securing Children Online Through Parental Empowerment (SCOPE) Act, which seeks to prohibit a digital service provider (DSP) from entering into an agreement with a known minor without the consent of the known minor’s parent or guardian and require a DSP to provide in those agreements the ability for the parent or guardian to permanently enable certain settings. The SCOPE Act also requires certain disclosures regarding advertising and provides parents with better insight into how algorithms are used to target their children.

The bill exempts credit unions and other financial institutions and data subject to the Gramm-Leach-Bliley Act.

**CU Action Required:** None.

**Effective Date:** 09/01/23

## **PROPERTY**

### **HB 207**

**House Author:** Murr, Andrew

**Senate Sponsor:** Middleton, Mayes

**Caption:** Relating to the exclusion of conveyances from classification as sham or pretended sales.

**Statute:** Property Code



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**Summary:** The bill amends current law relating to the exclusion of certain conveyances from classification as sham or pretended sales.

The bill seeks to help level the playing field between rural borrowers and lenders and their urban counterparts and give title insurers a safe harbor for insuring liens on rural property by providing a method for rural borrowers to obtain cash-out financing on rural property that is not the borrower's residence or contiguous to the borrower's residence.

**CU Action Required:** Credit unions providing lending in rural areas may want to consider new lending options.

**Effective Date:** 09/01/23

### **HB 1382**

**House Author:** Hernandez, Ana

**Senate Sponsor:** Bettencourt, Paul

**Caption:** Relating to the public sale of real property taken in execution of a judgment.

**Statute:** Civil Practices and Remedies Code

**Summary:** The bill amends the Civil Practice and Remedies Code to give a county commissioners court the option to authorize, by official action, the officer charged with conducting a public sale of real property taken in execution of a judgment to conduct a public auction using online bidding and sale as an alternative to conducting an in-person sale, subject to the same date and time requirements for in-person sales.

The bill authorizes the commissioners court to adopt rules governing these online auctions and specifies that the rules take effect on the 90th day after the date the rules are published in the count's real property records. The bill exempts from an online auction a sale of real property that is under a power of sale conferred by a contract lien.

**CU Action Required:** None.

**Effective Date:** 09/01/23



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## SUNSET

### SB 1659

**Senate Author:** Schwertner, Charles

**House Sponsor:** Holland, Justin

**Caption:** Relating to the sunset review process and certain governmental entities subject to that process.

**Statutes:** Occupations Code, Government Code, Education Code, Agriculture Code, Health and Safety Code, Special Districts Code, Finance Code, Parks and Wildlife Code

**Summary:** The bill postpones the sunset review process for numerous government agencies, including the Texas Credit Union Department (TCUD) and Texas Credit Union Commission (TCUC). The TCUD and TCUC reviews will be postponed from the 2032–2033 cycle to the 2034–2035 cycle.

**CU Action Required:** None. The bill ensures the existence of the separate credit union regulatory agency for an extra two years.

**Effective Date:** 09/01/23

## UNCLAIMED PROPERTY

### SB 658

**Senate Author:** Perry, Charles

**House Sponsor:** Leach, Jeff

**Caption:** Relating to the disposition of money from certain attorney accounts delivered to the comptroller as unclaimed property.

**Statute:** Property Code

**Summary:** The bill redirects dormant property subject to turnover from certain categories of unidentified or abandoned interests in Interest on Lawyers' Trust Accounts (IOLTA) and client's trust accounts for use in the state's civil legal defense fund for indigent persons.

**Credit Union Impact:** None.

**Effective Date:** 09/01/23