

# **EXAM SPECIFICATIONS FOR BUSINESS BANKRUPTCY LAW**

The purpose of the certification examination is to require applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in consumer bankruptcy law.

**DEFINITION.** Bankruptcy law is legal practice dealing with the representation of parties in matters primarily involving the Bankruptcy Code, but also involving other aspects of debtor creditor relations as they affect or are affected by bankruptcy or insolvency.

Business bankruptcy law is the practice of law dealing with the representation of business debtors, their creditors, and/or trustees in all areas of bankruptcy. It includes primarily representation in matters involving the Bankruptcy Code, and also, without limitation, all aspects of business debtor-creditor relations as they affect or are affected by bankruptcy or insolvency. The term "business bankruptcy law" includes the representation of debtors, creditors, trustees, or other parties in business cases under chapters 7, 9, 11, 12 and 13 of the Bankruptcy Code.

**KNOWLEDGE.** Applicant must have knowledge of the following: **(Not all of the following exam topics will be covered on the exam. Applicant will be tested on all laws currently in effect at the time of the exam.)**

- I. Chapters 7 and 11 of the Bankruptcy Code
- II. Tax claims
- III. Property of the estate
- IV. Transactions outside the ordinary course of business which may include post-petition lending, sales of assets and/or "first day" orders
- V. Good faith filing, abusive filing
- VI. Distribution and priorities
- VII. Disclosure statements, plan voting and acceptance
- VIII. Plan confirmation
- IX. Claim classification and impairment
- X. "Cram Down" standards and Section 1111(b) options
- XI. Co-debtors and guarantors
- XII. Subordination of claims
- XIII. Powers and duties of debtors, debtors-in-possession, trustees and other parties
- XIV. Rights of equity security holders

- XV. Cash collateral motions, hearings and agreed orders
- XVI. Multi-affiliate bankruptcy cases
- XVII. Pre-bankruptcy planning and workouts
- XVIII. Official and Unofficial committees
- XIX. Chapter 9
- XX. Creditor's plans and competing plans
- XXI. Post confirmation issues
- XXII. Setoff and recoupment
- XXIII. Involuntary bankruptcy
- XXIV. Pre-Packaged Plans of Reorganization
- XXV. Federal Rules of Civil Procedure and Evidence
- XXVI. Venue and Jurisdiction of the Courts and other provisions of Title 28 U.S.C. Sections 151-159, 771-775, 1334, 1408 et seq., and 1452
- XXVII. Texas and federal non-bankruptcy exemption statutes
- XXVIII. Chapters 1, 3, and 5 of the Bankruptcy Code of 1978 as Amended (in effect on or after August 1, 1995)
  - A. 11 U.S.C. Section 101 et seq. and Bankruptcy Rules (in effect on or after August 1, 1995, including the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCA))
- XXIX. Use, sale or lease of property
- XXX. Executory contracts and unexpired leases
- XXXI. Lien avoidance, fraudulent transfers, and preference
- XXXII. Automatic stay, stay litigation and adequate protection
- XXXIII. Distribution and priorities
- XXXIV. Proofs of claim and claims disputes
- XXXV. Appointment and fees of professional persons and trustees
- XXXVI. Removal, remand, and abstention under Title 11 and 28
- XXXVII. Finality of orders and appeals to District Court
- XXXVIII. Appeals and appellate procedure beyond the District Court level
- XXXIX. Bankruptcy Crimes--Title 18 U.S.C. Sections 151-155, 1961, 2516, 3057, 3284, and 6001
- XL. Abandonment of assets from the bankruptcy estate
- XLI. Rule 2004 Examinations and discovery
- XLII. Section 108

- XLIII. Governmental Immunity
- XLIV. Assumption and assignment of leases
- XLV. Avoidance of preferences, fraudulent transfers, and liens
- XLVI. The Texas Disciplinary Rules of Professional Conduct  
The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.

**SKILLS.** Applicant must demonstrate the:

1. Ability to communicate effectively to a variety of audiences (e.g., communications addressed to clients, counsel, courts, administrative agencies, etc.)
2. Ability to develop and evaluate strategies for solving a problem or accomplishing an objective
3. Ability to analyze and apply legal rules and principles
4. Ability to analyze, sort and use facts, and to plan and direct factual investigations
5. Ability to organize and manage a legal task efficiently within time constraints
6. Ability to represent a client consistent with applicable ethical standards
7. Ability to invoke and utilize the procedures normally required in the area of specialty including pleadings and filings