

EXAM SPECIFICATIONS FOR CONSUMER AND COMMERCIAL LAW

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

DEFINITION. Consumer and commercial law is the practice of law dealing with consumer and commercial transactions, including transactions of individual and business consumers and commercial transactions between businesses and other businesses or individuals. The practice of consumer and commercial law also includes the prosecution and defense of claims as well as business compliance. Consumer and commercial law includes, by way of example, but not limitation, matters involving: the Texas Deceptive Trade Practice - Consumer Protection Act; Title 5, Subtitle C of the Texas Insurance Code; the Uniform Commercial Code; the Texas Credit Code; the Texas Manufactured Housing Standards Act; the Texas Transportation Code, and Title 14, Subtitle A, Texas Occupations Code; Title 5, Chapter 59 (Self-Storage Facility Liens), Chapter 61 (Motor Vehicle Mortgagee's Lien), and Chapter 70, Sub-Chapter A (Possessory Liens), Sub-Chapter B (Liens on Vessels), Sub-Chapter D (Aircraft Repair and Maintenance Lien), and Texas Property Code; laws dealing with landlord-tenant relationship; the Federal and Texas Fair Debt Collection Practices Act; the Federal Truth in Lending Act; and other federal and state laws dealing with sales, leases, insurance, credit, and collection activities involving consumers.

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. Title 2, Chapter 17 of the Texas Business and Commerce Code, Deceptive Trade Practices-Consumer Protection Act
- II. Title 5, Subtitle C of the Texas Insurance Code
 - A. Unfair or deceptive trade practices or acts
 - B. Unfair claim settlement practices
- III. Consumer rights under the common law
- IV. Texas Business and Commerce Code, Chapters 2 (Sales), 3 (Commercial Paper) and 9 Subchapter E (Secured Transactions-Default: §§9.501 - 9.507) and Chapters 26 - 27
- V. Texas Finance Code, Title 4, including Usury; TX. B&C.C Ch. 18; Federal Truth in Lending Act and Holder in Due Course Regulations
- VI. Warranties and related state and federal statutes as well as the common law, Magnuson-Moss FTC Improvement Act and Warranty Act regulations
- VII. Federal and Texas Debt Collection Practices Act

- VIII. Texas Property Code including:
- A. Real Estate
 - B. Landlord/Tenant
 - C. Sham Sales of Homesteads
 - D. Timeshares and §41.005 & .007
 - E. Residential Construction Liability Act
 - F. Chapter 27, Title 7 condominiums (§§81.001 – 82.164)
 - G. Title 5 Subtitle A Property Exempt from Creditors' Claims and Subtitle B
 - H. Liens
 - I. Title 16 Texas Residential Construction Commission Act
 - J. Title 2, Chapter 5, Subchapter D, Executory Contracts for Conveyance
- IX. Home Solicitation Act
- X. Texas Manufactured Housing Standards Act
- XI. Business Opportunity Act
- XII. Texas Transportation Code and Title 14, Subtitle A, Texas Occupations Code
- XIII. Texas Civil Procedure and Rules of Evidence and Civil Practice and Remedies Code
- XIV. Recent cases or legislation related to consumer law matters
- XV. 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