

TEXAS BOARD OF LEGAL SPECIALIZATION

STANDARDS FOR ATTORNEY CERTIFICATION

PART II

SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XIV

CONSUMER AND COMMERCIAL LAW

(Area ID: CS / Year Started: 1993)

A. DEFINITIONS.

1. 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.
2. "Contested consumer or commercial matters" means law suits filed in a court of record in which an answer is filed and which have been resolved other than by "No Answer Default" or "Dismissal for Want of Prosecution". Applicant must have been counsel from initiation through resolution of the suit and representation completed. Contested consumer or commercial matters may also include cases involving issues of consumer or commercial law submitted to binding arbitration either before or after suit is filed, however, these will be considered on a case by case basis.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in Texas consumer and commercial law practice by providing such information as may be required by TBLS.

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas consumer and commercial law during each year of the 3 years preceding application as defined in Section XIV, A of the Specific Area Requirements for Consumer and Commercial Law.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas consumer and commercial law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant must provide the number of hours he or she has devoted to each of the following within the 3 years immediately preceding application:

(a) Counseling of clients regarding claims and defense of claims in the area of consumer and commercial law;

(b) Representation of clients in preparation, prosecution and defense of consumer and commercial claims;

(c) Representation of clients in alternative dispute resolution procedures as defined by Tex. Civ. Prac. & Rem. Code, Chapter 154; and

(d) The advising and counseling of persons or business entities in areas involving the establishment, revision or maintenance of procedures, practices, forms or programs to comply with consumer and commercial laws.

(2) Applicant must have represented clients as lead counsel in at least 24 contested consumer or commercial matters in Texas within the 5 years immediately preceding application.

(3) In addition to matters required in Section XIV, B,1,b(2) above, applicant must have met one of the following categories within the 10 years immediately preceding application:

(a) Five (5) contested consumer or commercial law matters in which issues were submitted to the finder of fact in a court of record in Texas, with applicant having been lead counsel in at least 2 of these matters; or

(b) Five (5) binding arbitration proceedings dealing with consumer or commercial law matters in which issues were submitted to an arbitrator (or arbitration panel), tried to conclusion on presentation of oral testimony, which either (i) involved an amount in controversy in excess of \$5,000, or (ii) referred the matter to arbitration by a county court at law, district court, or federal court, with applicant having been lead counsel in at least 2 of these matters; or

(c) A combination of 5 matters as described in Section XIV, B,1,b(3)(a-b) above.

2. **Recertification.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas consumer and commercial law during each year of the 5 year period of certification as defined in Section XIV, A of the Specific Area Requirements for Consumer and Commercial Law except as provided for in Part I–General Requirements, Section VI, C,1(b).

- C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in consumer and commercial law. These persons must be substantially involved in consumer and commercial law, and be familiar with applicant's consumer and commercial law practice.
1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving consumer and commercial law matters within the 3 years immediately preceding application.
 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving consumer and commercial law matters since certification or the most recent recertification.
 3. **Reference Types.** Applicant must submit the names of 5 Texas attorneys who are substantially involved in consumer and commercial law. Applicant must have been an adversary in a consumer and commercial law matter with 2 of these attorneys.