

EXAM SPECIFICATIONS FOR BANKRUPTCY LAW

PURPOSE OF THE EXAM. The purpose of the certification exam is to require an applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in bankruptcy law, including the specifics of consumer bankruptcy law or business bankruptcy law as appropriate.

EXAM FORMAT. The morning session of the exam consists of three Essay Questions. Each essay is worth 100 points (300 points total). The afternoon session consists of 100 Multiple Choice Questions of which 10 of these questions cover professional ethics. Each multiple choice question is worth 2 points (200 points total).

EXAM GRADING. All exam materials are confidential and not available for review. Essay answers are graded anonymously and identified only by an assigned examinee number. Multiple choice answers are computer graded. Successful examinees are notified that they passed but are not provided with the specific score. Unsuccessful examinees are notified of the exam score. Exams that score 10 points below the passing grade are automatically regraded. Exam results are final.

ESSAY QUESTIONS. Essay questions concentrate on the specific sub-category in which an applicant is seeking certification. Essays consist of a fact pattern followed by a series of questions (usually 4-6) for an applicant to answer. Essays are designed to require an applicant to recognize and analyze issues in the fact pattern and explain how those issues should be resolved. The fact patterns will involve situations you would likely encounter in your practice.

- **Consumer Bankruptcy Law:** Essays typically include issues of debtors' eligibility, property of the estate exemptions, and procedures in Bankruptcy Court.
- **Business Bankruptcy Law:** Essays typically include property of the estate, business transactions of the debtor, classification and priority of claims, plan confirmation and procedures in Bankruptcy Court.

Applicants should make sure to provide the specific information each question asks for and to communicate as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. In order to pass the exam, applicants must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

MULTIPLE CHOICE QUESTIONS. These questions are designed to cover bankruptcy principles in the exam specifications that are common to both business and consumer bankruptcy law. They are designed to test a breadth of issues in each specialty area and require an applicant to select the **best** available answer option.

REQUIRED KNOWLEDGE, SKILLS, AND ABILITIES. A **Consumer Bankruptcy Law** applicant is expected to understand primarily all aspects of chapters 7, 12, and 13 of the Bankruptcy Code. A **Business Bankruptcy Law** applicant is expected to understand primarily chapters 7 and 11 of the Bankruptcy Code. The knowledge, skills and abilities required of a consumer bankruptcy law applicant and a business bankruptcy law applicant are set out on the following pages.

NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. APPLICANTS WILL BE TESTED ON RULES AND LAWS IN EFFECT AT THE TIME OF THE EXAM UNLESS OTHERWISE SPECIFIED.

A. Business Bankruptcy Law - Specific Topics

1. Chapters 7 and 11 of the Bankruptcy Code
2. Chapter 9
3. Rejection and/or Assumption and Assignment of Executory Contracts and Unexpired Leases
4. Claim classification and impairment
5. “Cram Down” standards and Section 1111(b) options
6. Creditor’s plans and competing plans
7. Multi-affiliate bankruptcy cases
8. Official and Unofficial committees
9. Pre-Packaged Plans of Reorganization
10. Rights of equity security holders
11. Setoff and recoupment
12. Subordination of claims
13. Transactions outside the ordinary course of business which may include post-petition lending, sales of assets and/or “first day” orders
14. Critical Vendors
15. Reclamation
16. Structured Dismissals
17. Third Party Releases
18. Joint Administration and Substantive consolidation
19. Involuntary bankruptcy
20. Section 506 valuation and surcharge

B. Consumer Bankruptcy Law – Specific Topics

1. Chapters 7, 12, and 13 of the Bankruptcy Code
2. Administration of chapters 7, 12, and 13, including powers and duties of trustees
3. Chapter 12 and 13 plans confirmation; Application of Chapter 13 plan forms in the district of your primary practice.
4. Chapter 11 cases involving individual debtors
5. Reaffirmation, redemption and abandonment
6. Consumer counseling and interviewing, to include extraction of information
7. Mortgage Loss Mitigation
8. Rule 3002.1

C. General Bankruptcy Law (*Applies to both subcategories*)

1. Abandonment of assets from the bankruptcy estate
2. Appeals and appellate procedure beyond the District Court
3. Automatic stay, stay litigation and adequate protection
4. Avoidance of preferences, fraudulent transfers, and liens
5. Bankruptcy Crimes--Title 18 U.S.C. Sections 151-155, 1961, 2516, 3057, 3284, and 6001

6. Bankruptcy Rules and Federal Rules of Civil Procedure and Federal Rules of Evidence
7. Cash collateral motions, hearings and agreed orders
8. Chapters 1, 3, and 5 of the Bankruptcy Code of 1978 as Amended (in effect on or after August 1, 1995)
 - (i) 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 (BAPCA) of 2005)
9. Co-debtors and guarantors
10. Debtor's eligibility
11. Discharge of debt and dischargeability
12. Disclosure statements, plan voting and acceptance
13. Dismissal and conversion
14. Distribution and priorities
15. Executory contracts and unexpired leases
16. Exemptions
17. Finality of orders and appeals to District Court
18. Forms and form filing requirements
19. Good faith filing, abusive filing
20. Governmental Immunity
21. Involuntary bankruptcy
22. Jurisdiction (core, removal, remand and abstention)
23. Plan confirmation
24. Post confirmation issues
25. Powers and duties of debtors-in-possession, trustees and other parties
26. Pre-bankruptcy planning and workouts
27. Proofs of claim and claims disputes
28. Property of the estate (including community property)
29. Removal, remand, and abstention under Title 11 and 28
30. Residential Mortgages
31. Retention and payment of professionals
32. Rule 2004 Examinations and discovery
33. Rule 3001
34. Section 108
35. Tax claims
36. Texas and federal exemption statutes
37. Use of cash collateral
38. Use, sale or lease of property
39. 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

D. The Texas Disciplinary Rules of Professional Conduct. (*Applies to both subcategories*)

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.

An applicant must demonstrate the ability to:

- Communicate effectively and persuasively to clients, counsel and courts
- Develop and evaluate strategies for solving a problem or accomplishing an objective
- Analyze and apply legal rules and principles
- Analyze, sort and use facts; plan and direct factual investigations
- Organize and manage a legal task efficiently within time constraints
- Represent a client consistent with applicable ethical standards
- Invoke and utilize the procedures normally required in the specialty area, including pleadings and filings