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Bankruptcy (Quick Study Law)

BANKRUPTCY	
INTRODUCTION	CHAPTER 13 CASES
BANKRUPTCY CODE OVERVIEW Chapter 1 General Provisions Chapter 3 Case Administration Chapter 7 Creditors, the Debtor, and the Estate Chapter 9 Liquidation Chapter 11 Reorganization Chapter 12 Adjustment of Debts of a Family Farmer with Regular Annual Income Chapter 13 Adjustment of Debts of an Individual with Regular Income Chapter 15 Ancillary and Other Cross-Border Cases (NOTE: This text includes "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" changes.) On April 20, 2007, President Bush signed into law the biggest revision of the U.S. bankruptcy laws in more than 75 years. The majority of these revisions went into effect 180 days after enactment, although some provisions went into effect immediately. Chapter 11 is amended by the new code because effective July 1, 2007.	CHAPTER 13 CASES 1. Discharging supervised debtors of debtor's performance of plan 2. §1305 has not death of debtor's debts under this chapter
FORMS OF BANKRUPTCY RELIEF • EXEMPTIONS UNDER §541 1. A homestead 2. Any "personal" real property, or leasehold interest in real property in the United States 3. The term "personal" includes individuals, partnerships, and corporations (§541(c)) 4. "Exemption" is defined by the code to include individual and unincorporated business associations, but does not include limited partnerships (§541(c)) Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 changes (§541(c)) 1. A debtor who is an individual must file a brief with the court within 30 days of the filing of the petition stating the filing of the petition within the 180-day period preceding the filing of the petition within the individual is incorporated, dissolved, or active within day in a year since, or the individual certifies to the court that "except in the case of the debtor from obtaining counseling." 2. Before day 30, "discharge" eligibility must be "verified" (meaning, verify by the court for the debtor to comply) (§541(c)) 3. If debtor is an individual and case is dismissed and refilled within 1 year, automatic stay is subsequent case terminates 30 days post-confirmation unless stay extended by court (§541(c)) 4. Automatic stay is extended to subsequent refilled case if petition is timely verified (§541(c)) 5. Certificate describing services received and any debt exception plan must be filed with bankruptcy petition (§541(c)) CHAPTER 7 (Liquidation) 1. Requirements for eligibility a. Debtor must be a "person" and, if an individual, must comply with credit counseling requirement b. Railroads, domestic and foreign insurance companies, and bank and insurance institutions are ineligible 2. Process a. Debtor's pre-petition non-exempt property is liquidated by trustee proceeds and distributed in order of priority to satisfy creditor's claims b. Individual debtor's pre-petition debts and discharged pending "fresh start," business debtor credit operations CHAPTER 11 (Reorganization) 1. Requirements for eligibility a. Debtor must be a "person" and, if an individual, must comply with credit counseling requirement	ATTORNEYS • QUALIFYING CREDITORS 1. Attorney for debtor (Chapter 11 & 12), trustee (Chapter 13), or creditor committee (Chapter 11) must be approved by court 2. Attorney may be used for later representation in violation of Rule 2013 Collection Practices Act (Chapter 11, 12, 13) 3. Attorney may not have any adverse interests to the estate (§327(a)) 4. Court may authorize trustee to get its own attorney (if in best interest of the estate) (§327(b)) 5. Other professionals, such as accountants, may also be retained with court approval 6. Non-lawyer preparer of bankruptcy petitions subject to strict regulation and severe penalties for misconduct (§328) Bankruptcy Act 2005 changes 1. Attorney representation must sign petition, affidavits, or motions to certify that attorney has performed a reasonable investigation into circumstances of debtor's financial condition, determine that it is well-founded in fact, warranted by law and good faith, and is not an abuse, and has no knowledge after an inquiry that information is incorrect 2. In Chapter 13, trustee may receive from debtor's unsecured nonpriority claims for preparing a petition to dismiss under the above standard of §328(b) if attorney retained under §327(b) is not a professional 3. Trustee must determine the requirements, regulations, and conditions on debtors' agency assistance, itemized credit counseling agencies, and bankruptcy petition preparers under §328, §329, §330, and §331 • COMPENSATION 1. Trustees and professionals retained by debtor (Chapters 7, 11, & 12), trustee of Chapter 13, or creditors' committee are normally paid from bankruptcy estate (§327, §330) 2. All professional fees must be approved by court (§328) 3. Parties to be considered in allowing or denying fee requests are: (a) the estate, (b) the debtor, (c) the creditors, (d) the trustee, (e) the court, and (f) the public 4. In considering reasonable compensation the court shall consider nature, extent, and value of services, including time spent, rates charged, necessity of services, time in which services were performed, and customary compensation 5. In Chapter 13, debtor's attorney is not entitled to payment from bankruptcy estate; must receive fee from debtor or advance (§328(b), §330, §331) Bankruptcy Act 2005 changes 1. Fees have increased priority among unsecured claims as administrative expenses (§328(b))



Synopsis

The series that BarCharts was built upon. For those in law school facing loads of information that culminates in the Bar Exam.

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Customer Reviews

Honestly, at first, I couldn't see how ONE laminated PAGE (front and back) would be enough to sum up a whole course in a manner that would help me on my law school exam....but once I received it in the mail and started looking it over, my mind was changed, completely!! HIGHLY recommend for someone who wants a very concise guide that will help you pick out what's truly important in this subject vs. info that can be left out without causing any point reductions on exams.

BarCharts normally makes great products, but this one is useless. Few cases are discussed, and the sections confusingly tell you a rule, only to tell you a few lines down how it was changed by BAPCA. It's well past BAPCA's 2005 passage, and everyone's textbook has been updated by now. Unfortunately, nobody updated this product.

I used the Fed Income Tax BarCharts, which was extremely helpful for citing statute sections and key cases. However, this BarCharts for Bankruptcy was 50% longer and not nearly as helpful. It might be because of my particular class. I took the course with one of the author's of the widely-used Bankruptcy Law textbook, and we focused much on 1129 cram downs and 363 sales, which I found lacking in this supplement.

Well organized. Has a lot of the main laws. Would've been better if each stated law noted which Â§ it was referring to.

Came quickly, nice review.

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