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# Bankruptcy (Quick Study Law)

 <b>BANKRUPTCY</b>	
<p><b>INTRODUCTION</b></p> <p><b>BANKRUPTCY CODE OVERVIEW</b></p> <p>Chapter 1 General Provisions Chapter 2 Case Administration Chapter 3 Creditors, the Debtor, and the Estate Chapter 4 Liquidation Chapter 5 Adjustment of Debts of a Debtor 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</p> <p><b>(NOTE: New text indicates "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" changes.)</b></p> <p>On April 20, 2005, 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 rules become effective July 1, 2005.</p>	<p>4. Railroads are eligible for Chapter 11, stockholders, commodity brokers, domestic and foreign insurance companies, and banking institutions (except an insured state member bank) are ineligible.</p> <p>5. Primarily used by businesses.</p> <p>6. Debtor recognizes its liabilities and attempts to reorganize its debts in an effort to financially reorganize.</p> <p>7. Debtor retains all assets and continues to use, sell, or lease property (336).</p> <p>8. Creditors paid pursuant to "plan of reorganization".</p> <p><b>CHAPTER 11 (Rehabilitation for Individuals)</b></p> <p>1. Requirements for eligibility.</p> <p>2. Process.</p> <p>3. Individual must have "income sufficiently stable and regular to enable such individual to make payments under a (Chapter 11 plan)", also may include public assistance or pension benefits.</p> <p>4. Debtor must have "non-contingent, liquidated, unsecured debts" totaling less than \$336,900 and "non-contingent, liquidated, secured debts" of less than \$1,000,000.</p> <p>5. Process.</p> <p>6. Debtor retains disposable income for 3 to 5 years to repay all or a portion of debts pursuant to repayment plan.</p> <p>7. May protect assets of the debtor's property than Chapter 7 because debtor keeps more property.</p>
<p><b>FORMS OF BANKRUPTCY RELIEF</b></p> <p><b>1. ELIGIBILITY CRITERIA FOR DEBTOR</b></p> <p>4. Bankruptcy petition may be filed by:</p> <ol style="list-style-type: none"> <li>an individual;</li> <li>any "person" that is not an individual, or has a place of business or property in the United States;</li> <li>the state "partner" includes individuals, partnerships, and corporations (330(a)(2));</li> <li>"corporation" is defined by the code to include incorporated and unincorporated business associations, but does not include limited partnerships (330(a)(3)).</li> </ol> <p><b>Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 changes (330(b))</b></p> <ol style="list-style-type: none"> <li>a debtor who is an individual must obtain a briefing from an accredited credit-counseling agency within the 120-day period preceding the filing of the petition unless the individual is a corporation, disabled, an active military duty in a war zone, or the individual certifies to the court that "urgent circumstances" prevented the debtor from obtaining counseling.</li> <li>petition may be "dismissed" simply stated as "withdrawal" resulting from the court for failure to comply (334, 336a).</li> <li>if debtor is an individual and case is dismissed and refiled within 1 year, automatic stay in subsequent case terminates 30 days post-order unless stay extended by court (332(a)(7)).</li> <li>Automatic stay unaffected by subsequently advised case if petition is timely entered (334, 336a).</li> </ol> <p>2. Certificate disclosing services received and any debt repayment plan must be filed with bankruptcy petition (332(a)(8)).</p> <p><b>CHAPTER 7 (Liquidation)</b></p> <ol style="list-style-type: none"> <li>Requirements for eligibility.</li> <li>Debtor must be a "person" and if an individual, must comply with credit-counseling requirement.</li> <li>Railroads, domestic and foreign insurance companies, and banking institutions are ineligible.</li> <li>Process.</li> <li>Debtor's pre-petition non-exempt property is liquidated by trustee proceeds are distributed in order of priority to satisfy creditor's claims.</li> <li>Individual debtor's pre-petition debts are discharged pending "fresh start", business debtor reverts operations.</li> </ol> <p><b>CHAPTER 11 (Reorganization)</b></p> <ol style="list-style-type: none"> <li>Requirements for eligibility.</li> <li>Debtor must be a "person" and if an individual, must comply with credit-counseling requirement.</li> </ol>	<p><b>CHAPTER 13 CASES</b></p> <ol style="list-style-type: none"> <li>Discharging reorganization of debtor's performance of plan.</li> <li>336(b) bars our discharge of debtor's debts under this chapter.</li> </ol> <p><b>ATTORNEYS</b></p> <p><b>• QUALIFYING CREDITORS</b></p> <ol style="list-style-type: none"> <li>Attorney for debtor (Chapter 11 &amp; 12), trustee (Chapter 7), or creditor's committee (Chapter 11) must be approved by court.</li> <li>Attorney may be used for later representation in violation of <i>Plan Debt Collection Practice Act (330(a)(3), 336(a)(4))</i>.</li> <li>Attorney may not have any adverse interests to the estate (337(a)).</li> <li>Court may authorize trustee to act as sole attorney (7 or 10 from assets of the estate (337(a)(6))).</li> <li>Other professionals, such as accountants, may also be retained with court approval.</li> <li>Non-lawyer preparer of bankruptcy petitions subject to state regulation and severe penalties for misconduct (336).</li> </ol> <p><b>Bankruptcy Act 2005 changes</b></p> <ol style="list-style-type: none"> <li>Attorney representation must sign petition, affidavits, or motions to certify that attorney has performed a reasonable investigation into circumstances of debtor's financial condition that it is well-informed as to facts concerning the law and good faith, and to act as officer, and has no knowledge after an inquiry that information is incorrect.</li> <li>In Chapter 7, trustee may receive from debtor's unsecured non-priority claims the percentage of the estate under the above standard of 337(b) if attorney retained (336(a)(7), 337(b)(2)).</li> <li>Cost may also receive court-ordered trustee attorney.</li> <li>Trustee generally has the responsibility, regularly, and routinely on debt-related agency accounts, non-prior credit-counseling agencies, and bankruptcy petition preparers under (332(a), 337, 338 and (336)(a), 337).</li> </ol> <p><b>• COMPENSATION</b></p> <ol style="list-style-type: none"> <li>Trustees and professionals retained by debtor (Chapter 7 &amp; 11), trustee of Chapter 7, or creditor's committee are normally paid from bankruptcy estate (332(a)(7), 336).</li> <li>Not professional fees must be approved by court (337).</li> <li>Failure to be considered as allowing or denying for requests determined in (336(a)).</li> <li>in-creditor's 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.</li> <li>In Chapter 7, debtor's attorney is not entitled to represent from bankruptcy estate, must receive the fees either in advance (336(a), 337, 338(a)).</li> </ol> <p><b>Bankruptcy Act 2005 changes</b></p> <ol style="list-style-type: none"> <li>Plan fees received priority among unsecured claims an administrative expenses (336(a)(2)).</li> </ol>
<p><b>PROCEDURE</b></p> <p><b>• FILING OF PETITION</b></p> <ol style="list-style-type: none"> <li>Documents must be filed signed or verified electronically if local rules permit (336(a)(1)).</li> <li>Voluntary any entity that may be a debtor files under (336 or 336).</li> <li>Involuntary creditors may file under Chapter 7, 11 only (336).</li> <li>When there are 12 or more unsecured creditors in bankruptcy, at least 3 petitioning creditors, including unsecured, non-contingent, unsecured claims totaling \$1,177 or more are required.</li> </ol>	<p><b>INSTITUTES</b></p> <p>The U.S. Trustee, a principal officer, oversees the administration of bankruptcy cases, and appoints panel and standing trustees for Chapter 7, 11, 12, and 13 cases.</p> <p><b>• FILING AND RECEIVING</b></p> <ol style="list-style-type: none"> <li>Panel and standing trustees are private citizens and employees of federal government.</li> <li>Panel and standing trustees serve as representatives of the estate, and can sue and be sued.</li> <li>Present in all Chapter 7 and 13 cases, but only in Chapter 11 if necessary.</li> </ol> <p><b>• POWERS AND DUTIES</b></p> <ol style="list-style-type: none"> <li>Collecting property to create estate.</li> <li>Challenges certain pre- and post-bankruptcy transfers by debtor, including voiding certain improper transfers.</li> <li>Taking property of estate.</li> <li>Objecting to debtor's discharge if appropriate under (334).</li> </ol> <p><b>CHAPTER 7 CASES</b></p> <ol style="list-style-type: none"> <li>Selected for particular case as appointed under (336).</li> <li>Perform liquidation functions.</li> </ol> <p><b>Bankruptcy Act 2005 changes</b></p> <ol style="list-style-type: none"> <li>U.S. Trustee must review all materials submitted by debtor and submit a report as to whether should be approved, no later than 10 days after first meeting of creditors.</li> <li>Must be filed within 30 days after that time, file a motion to dismiss or convert under (336(b) or a statement as to why such a motion is not appropriate.</li> </ol> <p><b>CHAPTER 11 CASES</b></p> <ol style="list-style-type: none"> <li>Appointed only for "cases" such as filed by corporate management, or if in best interests of creditors.</li> <li>Eligible creditors may elect trustee if appointment is authorized by court.</li> <li>Generally, the debtor retains its possession, custody, and control of its assets and property of estate (337(a)).</li> </ol> <p><b>Bankruptcy Act 2005 changes</b></p> <ol style="list-style-type: none"> <li>In "small business" cases, specific duties to conduct an initial interview before the creditors' meeting including beginning investigating new creditors, and providing prior plan's progress plan, and (337(a)(2)(B)).</li> </ol>



## 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

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.

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.

I don't own a business but you never know. Chance favors the prepared mind!

Well organized. Has a lot of the main laws. Would've been better if each stated law noted which  $\text{Å} \text{Å} \text{Å}$  it was referring to.

Easy and accurate!

Came quickly, nice review.

Comprehensive

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