

Table of Contents

CHAPTER 1. OVERVIEW OF THE CONSUMER BANKRUPTCY SYSTEM

- § 1:1 Background and legislative history
- § 1:2 —Enactment and structure of the Bankruptcy Code
- § 1:3 —Trustees
- § 1:4 Chapter 7
- § 1:5 —Property available for distribution
- § 1:6 —Exemptions of property
- § 1:7 —Order of distribution
- § 1:8 —Discharge from prepetition debts
- § 1:9 —Secured debt
- § 1:10 Chapter 12 family farmers and family fishermen
- § 1:11 Adjustments of debt under Chapter 13

CHAPTER 2. INTERVIEWING THE DEBTOR CLIENT

- § 2:1 Screening the client
- § 2:2 Conditioning the client
- § 2:3 Determining need for immediate bankruptcy relief
- § 2:4 Questionnaires—Current financial condition
- § 2:5 —Estimated future income and expenses
- § 2:6 Supplementary information
- § 2:7 Exemption planning
- § 2:8 Supplemental meeting for Chapter 13 plan
- § 2:9 Credit Counseling
- § 2:10 Final Review
- § 2:11 Obligations of an attorney as a “debt relief agency,” disclosures, and other mandatory requirements

CHAPTER 3. CHOOSING THE CORRECT BANKRUPTCY CHAPTER

- § 3:1 Determining need for bankruptcy
- § 3:2 Choosing Between Chapter 7 or 13

CHAPTER 4. BANKRUPTCY UNDER CHAPTER 7

- § 4:1 Preparing to start the Chapter 7 case

- § 4:2 Commencement of the Chapter 7 case
- § 4:3 —The voluntary case—Eligibility requirements
- § 4:4 — —Protection against debtor’s improper use of Chapter 7
- § 4:5 —Joint cases for married couples
- § 4:6 —Petition—Voluntary case
- § 4:7 —Filing fee
- § 4:8 —Lists, schedules, and statements
- § 4:9 — —Additional considerations
- § 4:10 — —Schedule A to Official Bankruptcy Form No. 106 A/B—Real property
- § 4:11 — —Schedule B to Official Bankruptcy Form No. 106 A/B—Personal property
- § 4:12 — —Schedule C to Official Bankruptcy Form No. 106—Property claimed as exempt
- § 4:13 — —Schedule D to Official Bankruptcy Form No. 106—Creditors holding secured claims
- § 4:14 — —Schedule E/F to Official Bankruptcy Form No. 106—Creditors holding unsecured priority claims
- § 4:15 — — —Creditors holding unsecured nonpriority claims
- § 4:16 — —Schedule G to Official Bankruptcy Form No. 106—Executory contracts and unexpired leases
- § 4:17 — —Schedule H to Official Bankruptcy Form No. 106—Codebtors
- § 4:18 — —Schedule I to Official Bankruptcy Form No. 106—Current income of individual debtor(s)
- § 4:19 — —Schedule J and J-2 to Official Bankruptcy Form No. 106—Current expenditures of individual debtor(s)
- § 4:20 — —Official Bankruptcy Form No. 107—Statement of financial affairs
- § 4:21 — —Official Bankruptcy Form No. 108—Statement of intention regarding disposition of property securing consumer debts and unexpired leases
- § 4:22 —Petition—Involuntary case
- § 4:23 —The involuntary case—Importance of compliance with requirements
- § 4:24 The automatic stay in a Chapter 7 case—Purpose of the automatic stay
- § 4:25 —Scope of the automatic stay—Acts covered by the automatic stay
- § 4:26 — —Proceeding against the debtor
- § 4:27 — —Pre-petition judgments
- § 4:28 — —Acts to obtain property of or from the estate, or to exercise control over property of the estate

TABLE OF CONTENTS

§ 4:29	— — Liens against property of the estate
§ 4:30	— — Liens against property of the debtor
§ 4:31	— — Claims against the debtor
§ 4:32	— — Setoff of debt
§ 4:33	— — Tax court proceedings
§ 4:34	— — Exceptions to the automatic stay
§ 4:35	— — — Criminal actions
§ 4:36	— — — Collection from property that is not property of the estate
§ 4:37	— — — Actions to establish paternity or to establish or modify orders for alimony, maintenance, or support
§ 4:38	— — — Perfection of interests in property
§ 4:39	— — — Actions that enforce police or regulatory power
§ 4:40	— — — Regulatory judgments not for monetary amount
§ 4:41	— — — Setoffs pertaining to commodity transactions
§ 4:42	— — — Setoffs by repo participants
§ 4:43	— — — Foreclosure
§ 4:44	— — — Tax deficiency
§ 4:45	— — — Lease of nonresidential real property
§ 4:46	— — — Negotiable instruments
§ 4:47	— — — Other actions
§ 4:48	— — — — Listed by Code
§ 4:49	— — Statutory redemption periods
§ 4:50	— Effect of the automatic stay
§ 4:51	— Enforcement of the automatic stay
§ 4:52	— Expiration of the automatic stay—Acts against property of the estate
§ 4:53	— — Other Actions
§ 4:54	— Relief from the automatic stay generally
§ 4:55	— Requesting relief from the automatic stay
§ 4:56	— — Cause to warrant relief from the stay
§ 4:57	— — Lack of equity in property
§ 4:58	— — Filing to hinder creditors
§ 4:59	Appointment of the trustee—The interim trustee
§ 4:60	— Election and qualification of the trustee
§ 4:61	— Duties of the trustee
§ 4:62	Turnover of property of the estate
§ 4:63	Duties of the debtor
§ 4:64	Meeting of creditors
§ 4:65	Property of the estate available for distribution to creditors
§ 4:66	— Special rule for community property

- § 4:67 —Property interests transferred by debtor before
petition
- § 4:68 —Property interests acquired by debtor after filing
- § 4:69 —Power benefiting entities other than debtor
- § 4:70 —Debtor's interest in terminated nonresidential real
property lease
- § 4:71 —Restrictions on transfer of debtor's property
- § 4:72 —Additional exclusions from property of estate
- § 4:73 Exempt property
- § 4:74 —Selection of exemptions and objections thereto
- § 4:75 —Federal bankruptcy exemptions—Bankruptcy
homestead
- § 4:76 — —Motor vehicles
- § 4:77 — —Household goods and furnishings
- § 4:78 — —Jewelry
- § 4:79 — —General exemption
- § 4:80 — —Tools of the trade
- § 4:81 — —Life insurance policies
- § 4:82 — —Cash surrender value
- § 4:83 — —Health aids
- § 4:84 — —Income supplements or substitutes
- § 4:85 — —Alimony, support, and maintenance benefits
- § 4:86 — —Benefit plans
- § 4:87 — —Crime victim's reparation award
- § 4:88 — —Wrongful death award
- § 4:89 — —Property traceable to life insurance policies
- § 4:90 — —Bodily injury
- § 4:91 — —Loss of future earnings
- § 4:92 —Nonbankruptcy exemptions
- § 4:93 — —Federal nonbankruptcy exemptions
- § 4:94 — —State exemptions
- § 4:95 — —Tenancies-by-the-entireties and joint tenancies
- § 4:96 —Doubling exemptions in joint cases
- § 4:97 —Unenforceability of waiver of exemptions
- § 4:98 Turnover—General turnover requirement
- § 4:99 —Exceptions to general turnover requirement
- § 4:100 — —Transfers by life insurance companies
- § 4:101 — —Certain involuntary case transfers
- § 4:102 — —Certain good faith transfers
- § 4:103 —Abandonment of property of the estate
- § 4:104 Executory contracts and unexpired leases—Code
provision for assumption or rejection of unexpired
leases and certain agreements
- § 4:105 —Scope of executory contract provision

TABLE OF CONTENTS

§ 4:106	—Decision to assume or reject unexpired leases or executory contracts
§ 4:107	—Effect of rejection
§ 4:108	—Effect of assumption
§ 4:109	—Unenforceability of bankruptcy clauses
§ 4:110	—Power to assign
§ 4:111	—Exceptions—Option of buyer in possession of real property
§ 4:112	— —Option of lessee of real property
§ 4:113	— —Personal-service contracts
§ 4:114	— —Loan contracts
§ 4:115	— —Lease of nonresidential real property
§ 4:116	— —Personal property
§ 4:117	Utility service
§ 4:118	Trustee's avoidance powers
§ 4:119	—Avoidance powers available to trustee—Liability of transferees of property obtained through avoidable transfers
§ 4:120	—Preferences—Elements of preferences
§ 4:121	— —Property of debtor
§ 4:122	— —Transfer to or for benefit of creditor
§ 4:123	— —Transfer for or on account of antecedent debt
§ 4:124	— —Transfer made while debtor insolvent
§ 4:125	— —Transfer made during specified pre-petition period
§ 4:126	— —Increase in payment to creditor
§ 4:127	— —Determining time of transfer—General rule
§ 4:128	— — —Wage garnishment as transfer of property
§ 4:129	— — —Attachments
§ 4:130	— — —Check payment cases
§ 4:131	— — —Lis pendens
§ 4:132	—Immunized preferences—Substantially contemporaneous exchanges
§ 4:133	— —Transfers in ordinary course of debtor's financial affairs
§ 4:134	— —Enabling loans
§ 4:135	— —Transfer for subsequent new value
§ 4:136	— —Transfers in payment of bonafide payment of a debt for a domestic support obligation
§ 4:137	— —Transfer of less than \$600
§ 4:138	— —Transfers aggregating less than \$6,825 for debtors primarily having primarily nonconsumer debts
§ 4:139	— —Other preference immunity provisions
§ 4:140	—Avoiding statutory liens—Types of statutory liens

- § 4:141 — —Statutory liens protected from trustee’s preference avoidance power
- § 4:142 —Fraudulent transfers and obligations—Trustee’s powers to avoid fraudulent transfers and obligations
- § 4:143 —Fraudulent transfers and obligations
- § 4:144 — —Actual intent to defraud
- § 4:145 — —Constructive fraud
- § 4:146 — — —Less than reasonably equivalent value
- § 4:147 — — —Transactions involving insolvents
- § 4:148 — — —Unreasonably small capital
- § 4:149 — — —Transfer by debtors about to incur debts
- § 4:150 — —Protection of good faith purchasers for value
- § 4:151 — —Time of transfer
- § 4:152 —Trustee’s use of actual unsecured creditor’s power
- § 4:153 —Trustee’s strong-arm powers
- § 4:154 — —Exercise of powers
- § 4:155 — —Judicial lien creditor status
- § 4:156 — —Status of creditor with execution returned unsatisfied
- § 4:157 — —Status of bona fide purchaser of real property
- § 4:158 —Limitations on trustee’s avoidance powers
- § 4:159 — —Statute of limitations
- § 4:160 — —Post-petition perfection of interests in property
- § 4:161 Setoffs
- § 4:162 —Availability of setoffs—Mutuality requirement
- § 4:163 — —Pre-petition requirement
- § 4:164 — —Nonexempt property
- § 4:165 —Limitations on setoffs
- § 4:166 The debtor’s exemption enhancement powers—Lien avoidance
- § 4:167 —Avoiding judicial liens—Liens subject to debtor’s avoidance power
- § 4:168 — —Liens arising outside of preference vulnerability period
- § 4:169 — —Scope of debtor’s avoidance power
- § 4:170 —Avoiding nonpossessory, nonpurchase-money security interests
- § 4:171 —Exempting property recovered by the trustee
- § 4:172 —Exempting property recoverable by trustee
- § 4:173 —Avoiding liens of undersecured creditors
- § 4:174 Collection of property of estate—General turnover requirement
- § 4:175 —Exceptions to turnover—Life insurance premium payments
- § 4:176 — —Entities without notice or knowledge of commencement of bankruptcy case

TABLE OF CONTENTS

§ 4:177	— —Custodians
§ 4:178	Post-petition transfers—Trustee’s general avoidance power
§ 4:179	— —Exceptions—Involuntary case “gap” transfers
§ 4:180	— — —Certain interests in real property transfers
§ 4:181	— —Statute of limitations
§ 4:182	—Liability of transferee for property of the estate
§ 4:183	— —Lien for improvements
§ 4:184	— —Statute of limitations
§ 4:185	Liquidation of property of estate—Sale after notice and hearing
§ 4:186	—Sale of property—Provisions for sale of property
§ 4:187	— —Sale of co-owned property
§ 4:188	Claims and objections
§ 4:189	Unsecured creditors and proofs of claim
§ 4:190	Distribution of property of estate to holders of allowed unsecured claims
§ 4:191	—Allowance of claims
§ 4:192	—Limitations on allowance of claims—Unenforceable under nonbankruptcy law
§ 4:193	— —Unmatured interest
§ 4:194	— —Property taxes
§ 4:195	— —Services of insider or debtor’s attorney
§ 4:196	— —Certain unmatured claims for support
§ 4:197	— —Claims of landlords—Allowability of landlords’ claims
§ 4:198	— — —Effect of security deposits
§ 4:199	— —Claims of employees for breach of unemployment contracts
§ 4:200	— —Claims of transferees of avoidable transfers
§ 4:201	—Post-petition claims—Time-period rules
§ 4:202	— —Involuntary case gap claims
§ 4:203	— —rejected executory contract claims
§ 4:204	— —Claims arising from trustee’s recovery of property
§ 4:205	— —Certain tax claims arising after commencement of case
§ 4:206	—Claims of sureties and guarantors
§ 4:207	—Distribution—Categories of claims
§ 4:208	— —Priority claims—Alimony, maintenance, or support claims
§ 4:209	— — —Administrative expenses
§ 4:210	— — —Claims in involuntary cases
§ 4:211	— — —Wage claims
§ 4:212	— — —Claims of employee benefit plans

- § 4:213 — — —Claims of those engaged in grain storage or storage or processing of fish
- § 4:214 — — —Consumer deposits
- § 4:215 — — —Tax claims
- § 4:216 — — —General claims—Timely filed and certain tardily filed claims
- § 4:217 — — —Certain other tardily filed claims
- § 4:218 — — —Claims for fines, penalties, and punitive damages
- § 4:219 — — —Post-petition interest
- § 4:220 — — —Balance to debtor
- § 4:221 Claims of secured creditors—Rights of secured creditors
- § 4:222 —Determining the amount of a secured creditor's unsecured claim
- § 4:223 —Determining amount of secured claim
- § 4:224 Discharge—General rule and qualifications
- § 4:225 —Under Section 727(a)
- § 4:226 —Objections to discharge
- § 4:227 — —Content of complaint
- § 4:228 — —Timing
- § 4:229 — —Standard of proof
- § 4:230 —Discharge procedure
- § 4:231 —Grounds for denial—Debtor not an individual
- § 4:232 — —Fraudulent transfer or concealment of property
- § 4:233 — —Failure to keep or preserve accurate records
- § 4:234 — —Knowing and fraudulent acts—False oaths or accounts
- § 4:235 — — —False claims
- § 4:236 — — —Extortion and bribery
- § 4:237 — — —Withholding records from officer of estate
- § 4:238 — —Failure to explain losses or insolvency
- § 4:239 — —Refusal to cooperate with court—Refusal to obey lawful court order
- § 4:240 — — —Refusal to testify after grant of immunity
- § 4:241 — — —Refusal to respond to material questions
- § 4:242 — —Debtor's conduct in connection with bankruptcy case of an insider
- § 4:243 — —Previous Chapter 7 discharge
- § 4:244 — —Previous Chapter 13 discharge
- § 4:245 — —Waiver of discharge
- § 4:246 — —Failure to Complete Personal Financial Management Course
- § 4:247 — —Certain Felonious or Tortious Conduct
- § 4:248 —Debts subject to discharge

TABLE OF CONTENTS

§ 4:249	—Debts excepted from discharge—Debt not covered under Chapter 7 discharge
§ 4:250	— —Related to separation agreements, divorce decrees, and the like
§ 4:251	— —Taxes and customs duties
§ 4:252	— —Debts arising from certain false representations
§ 4:253	— —Use of false financial statements
§ 4:254	— — —Materially false statements
§ 4:255	— — —Statement pertaining to debtor
§ 4:256	— — —Reasonable reliance
§ 4:257	— — —Written statement with intent to deceive
§ 4:258	— —Unscheduled debts
§ 4:259	— —Fiduciary debts, embezzlement, or larceny
§ 4:260	— —Debts for domestic support obligations
§ 4:261	— — —Obligations actually in the nature of alimony, maintenance, or support
§ 4:262	— —Debts for willful and malicious injuries
§ 4:263	— — —Definition of “willful”
§ 4:264	— — —Just cause or excuse
§ 4:265	— — —Reckless disregard for rights of others
§ 4:266	— — —Egregious conduct
§ 4:267	— — —Applicability to driving while intoxicated
§ 4:268	— — —Collateral estoppel
§ 4:269	— — —Measure of damages
§ 4:270	— — —Punitive damages
§ 4:271	— —Fines, penalties, and forfeitures
§ 4:272	— —Educational loans
§ 4:273	— — —Identity of debtor
§ 4:274	— — —Amount subject to discharge
§ 4:275	— — —Loans under federal health assistance loan program
§ 4:276	— — —Undue hardship
§ 4:277	— — —Loans under National Health Service Corps Program
§ 4:278	— —Driving while intoxicated
§ 4:279	— —Debts relating to waiver or denial of discharge in prior case
§ 4:280	— —Fraud of depository institutions or credit unions
§ 4:281	— —Failure to fulfill commitments to federal depository institutions
§ 4:282	— —Restitution obligations
§ 4:283	— —Debts to pay taxes, fines and/or fees under federal election law
§ 4:284	— —Divorce decree or separation agreement obligations not falling under 11 U.S.C.A. Section 523(a)(5)

- § 4:285 — —Fees and assessments to condominium and cooperative membership associations
- § 4:286 — —Debts owed to certain pension/profit-sharing or similar plans
- § 4:287 —Revocation of discharge
- § 4:288 Effect of discharge
- § 4:289 —Insurers
- § 4:290 —Criminal proceedings
- § 4:291 —Voiding of liens
- § 4:292 —Community property
- § 4:293 Exceptions to discharge—Inapplicability of stay
- § 4:294 —Sanctions
- § 4:295 —Appeals
- § 4:296 —Timing
- § 4:297 —Burden of proof
- § 4:298 —Collateral estoppel
- § 4:299 —Punitive damages and attorney fees
- § 4:300 —Amendments to schedules
- § 4:301 —Nonapplicability of the automatic stay
- § 4:302 Redemption of tangible personal property
- § 4:303 Determining value of collateral
- § 4:304 Reaffirmation
- § 4:305 Deferring entry of discharge
- § 4:306 Conversion or dismissal
- § 4:307 —Application
- § 4:308 Protection against discriminatory treatment
- § 4:309 —Governmental units
- § 4:310 —Private employers
- § 4:311 —Student loan providers
- § 4:312 Tolling of statutes of limitations
- § 4:313 Reopening a closed case

CHAPTER 5. ADJUSTMENT OF DEBTS UNDER CHAPTER 13

- § 5:1 Rights of consumer debtors under Chapter 13
- § 5:2 Eligibility for Chapter 13—Type of individual eligible
- § 5:3 — —Regular income
- § 5:4 —Amount of debt owed
- § 5:5 —Joint case eligibility
- § 5:6 —Raising the eligibility issue
- § 5:7 Commencement of the Chapter 13 case
- § 5:8 —Timing of filing
- § 5:9 —Petition
- § 5:10 —Filing fee

TABLE OF CONTENTS

§ 5:11	—Conversion to Chapter 13
§ 5:12	—Lists, schedules, and statement
§ 5:13	— —Additional Requirements Under Section 521
§ 5:14	Filing Pre-petition tax returns
§ 5:15	Debtor’s attorney’s fees in Chapter 13
§ 5:16	“Projected disposable income” and completion of Official Form B 122C
§ 5:17	The automatic stay
§ 5:18	—Codebtor
§ 5:19	—Impact on claims for alimony, maintenance, or support arrearages
§ 5:20	Exceptions to the automatic stay
§ 5:21	Continuation of criminal action or proceeding
§ 5:22	Termination of the stay
§ 5:23	Obtaining relief from the stay
§ 5:24	—Statutory redemption periods
§ 5:25	—Procedure
§ 5:26	Automatic stay limitations
§ 5:27	Tolling of statutes of limitations
§ 5:28	Property of the estate—Scope of property
§ 5:29	—Protection from creditor collection
§ 5:30	—Turnover
§ 5:31	Rights and powers of Chapter 13 debtor—Sale or lease of property of the estate
§ 5:32	—Use of property of the estate
§ 5:33	—Use of avoidance powers
§ 5:34	Duties of Chapter 13 debtor
§ 5:35	Debtor’s avoidance of certain liens and security interests
§ 5:36	Assumption and rejection of executory contracts and unexpired leases
§ 5:37	Filing claims and objections
§ 5:38	Computation of secured claims
§ 5:39	Claims of creditors—Post-petition taxes
§ 5:40	—Post-petition consumer debts
§ 5:41	—Utility debts
§ 5:42	Chapter 13 plan—Filing the Chapter 13 plan
§ 5:43	— —Filing permitted by debtor only
§ 5:44	— —Protecting interests of creditors
§ 5:45	—Mandatory provisions—General requirements
§ 5:46	— —Submitting future earnings or income to the trustee
§ 5:47	— —Full payment to priority creditors
§ 5:48	— —Equal treatment for claims within same class

- § 5:49 — — — Limited Exception from Requirement of
Certain DSO Claims
- § 5:50 — Optional provisions—General provisions
- § 5:51 — — Post-petition interest on unsecured,
nondischargeable claims
- § 5:52 — — Classes of unsecured claims that can be given
preferred treatment
- § 5:53 — — — Administrative convenience
- § 5:54 — — — Co-debtors
- § 5:55 — — — Classes not specified in the code
- § 5:56 — — — Debts related to small business that is not
primary source of income
- § 5:57 — Other provisions of Chapter 13 plan
- § 5:58 — — Provision to direct the trustee's avoidance
powers
- § 5:59 — — Codebtor release
- § 5:60 — Statutory prohibitions
- § 5:61 — Duration of plan
- § 5:62 Modifying rights of holders of secured and unsecured
claims
- § 5:63 — Secured claims
- § 5:64 — — Section 1325(a)'s hanging paragraph
- § 5:65 — — The abandonment or surrender alternative
- § 5:66 — Unsecured claims
- § 5:67 Curing or waiving defaults
- § 5:68 Concurrent payment of secured and unsecured claims
- § 5:69 Curing defaults on residential mortgages—Conditions
under which debtor may cure mortgage default
- § 5:70 — Cure over a reasonable time
- § 5:71 — Long-term debt
- § 5:72 Post-confirmation mortgage disputes
- § 5:73 Payment of post-petition claims
- § 5:74 Assumption or rejection of executory contracts or
unexpired leases
- § 5:75 — Defaults
- § 5:76 Utility service
- § 5:77 Payment of claims from property of the estate or
property of the debtor
- § 5:78 Vesting of property of the estate
- § 5:79 Commencement of payments
- § 5:80 Payments—Making payments outside of plan
- § 5:81 Modification of plan before confirmation
- § 5:82 Confirmation of plan—Requirements for confirmation
- § 5:83 — — Compliance with code
- § 5:84 — — Payment of fees and charges

TABLE OF CONTENTS

§ 5:85	— — Good faith requirement
§ 5:86	— — Best interests of creditors
§ 5:87	— — — Amount creditors would receive under Chapter 7
§ 5:88	— — — Value of distributions to unsecured creditors
§ 5:89	— — Secured claims
§ 5:90	— — — Acceptance of plan
§ 5:91	— — — Surrender of collateral
§ 5:92	— — — Cram-down
§ 5:93	— — — Limitation to allowed secured claims provided for by plan
§ 5:94	— — Feasibility of plan
§ 5:95	— Objection to confirmation by the trustee or a holder of an allowed unsecured claim: projected disposable income
§ 5:96	Disposable income for below-median debtors
§ 5:97	Disposable income for above-median debtors and the means test
§ 5:98	Confirmation of plan—Additional procedural and substantive requirements
§ 5:99	Hearing on confirmation of plan
§ 5:100	Post-confirmation modification
§ 5:101	Ordering third parties to make payments to the trustee
§ 5:102	Effect of confirmation
§ 5:103	Vesting of property of the estate in the debtor
§ 5:104	Revocation of confirmation order for fraud
§ 5:105	Chapter 13 discharge
§ 5:106	Failure to obtain confirmation
§ 5:107	Default under confirmed plan
§ 5:108	Hardship discharge—Student loans
§ 5:109	— Eligibility
§ 5:110	— — Debtor not accountable for failure to complete payments
§ 5:111	— — Debtor satisfied best-interests-of-creditors test
§ 5:112	— — Modification of plan not practicable
§ 5:113	— Scope of hardship discharge
§ 5:114	Effect of discharge
§ 5:115	Chapter 13 and security interests limited to debtor's home—Effect of discharge on home mortgage debt
§ 5:116	Conversion and dismissal—Debtor's right to convert
§ 5:117	— Debtor's dismissal right
§ 5:118	— Conversion or dismissal for cause
§ 5:119	— Creditor conversion to Chapter 11
§ 5:120	— Effect of conversion

- § 5:121 —Effect of dismissal
- § 5:122 Appeals
- § 5:123 Chapter 20 cases—Overview
- § 5:124 —Use of the Chapter 20 procedure
- § 5:125 —Use of Chapter 20 for lien stripping purposes
- § 5:126 —“Good faith” requirement
- § 5:127 —“No unfair discrimination” requirement
- § 5:128 Temporary Legislation Enacted Due to Covid-19
Impacting Chapter 13

CHAPTER 6. THE SMALL BUSINESS REORGANIZATION ACT OF 2019

- § 6:1 Generally
- § 6:2 Small business debtor eligibility under SBRA
- § 6:3 Administration
- § 6:4 Committees and professionals
- § 6:5 Subchapter V trustee
- § 6:6 Duties of subchapter V debtor
- § 6:7 Claim process
- § 6:8 Subchapter V plan and confirmation
- § 6:9 Discharge
- § 6:10 Preference law
- § 6:11 Retroactive applicability of subchapter V
- § 6:12 Key provisions

CHAPTER 7. ADJUSTMENT OF FAMILY FARMER DEBTS UNDER CHAPTER 12

- § 7:1 Changes to Chapter 12 made by BAPCPA
- § 7:2 Background of Chapter 12
- § 7:3 Rights of family farmers under Chapter 12
- § 7:4 Eligibility for Chapter 12—Type of entity
- § 7:5 —Income requirement
- § 7:6 —Joint case eligibility
- § 7:7 —180-day disability
- § 7:8 The automatic stay
- § 7:9 —Codebtor stay limitation to consumer debt
- § 7:10 —Denial of codebtor stay to corporate entities
- § 7:11 —Codebtor stay effective only during Chapter 12 case
- § 7:12 —Effect of debtor’s plan on codebtor stay
- § 7:13 Property of the estate—Expansion of scope
- § 7:14 —Protection from creditor collection
- § 7:15 Rights and powers of debtor—Possession of property of
estate
- § 7:16 —Use of property of estate

TABLE OF CONTENTS

§ 7:17	— —Adequate protection of secured creditor's interests
§ 7:18	—Obtaining credit
§ 7:19	—Use of avoidance powers
§ 7:20	—Making payments outside plan
§ 7:21	Claims of creditors—Allowable claims
§ 7:22	—No provision for postpetition claims
§ 7:23	—Claims of undersecured creditors
§ 7:24	Filing a Chapter 12 plan
§ 7:25	Mandatory plan provisions—General requirements
§ 7:26	—Submitting future earnings or income to the trustee
§ 7:27	—Full payment to priority creditors
§ 7:28	—Equal treatment for claims within same class
§ 7:29	Optional plan provisions
§ 7:30	—Classes of unsecured claims and preferred treatment of claims
§ 7:31	—Modifying rights of holders of secured and unsecured claims
§ 7:32	— —Secured claims
§ 7:33	— —Unsecured claims
§ 7:34	—Curing or waiving defaults
§ 7:35	—Concurrent payment of secured and unsecured claims
§ 7:36	—Assumption or rejection of executory contracts or unexpired leases
§ 7:37	—Payments of claims from property of estate or property of debtor
§ 7:38	—Sale of property of estate
§ 7:39	—Vesting of property of estate
§ 7:40	—Effect of postconfirmation modifications to secured claims
§ 7:41	—Inclusion of postpetition secured and unsecured debt
§ 7:42	Duration of plan
§ 7:43	Payments to trustee
§ 7:44	Modification of plan before confirmation
§ 7:45	Confirmation—Hearing
§ 7:46	—Requirements for confirmation
§ 7:47	— —Compliance with provisions of code
§ 7:48	— —Payment of fees and charges
§ 7:49	— —Good faith requirement
§ 7:50	— —Best interests of creditors
§ 7:51	— —Secured claims—Alterations of rights of secured creditors
§ 7:52	— — —Protection for secured creditor's interest
§ 7:53	— — —Limitations to allowed secured claims provided for by plan

- § 7:54 — —Alternative methods of treating holders of allowed
secured claims—Acceptance of plan
- § 7:55 — — —Surrender of collateral
- § 7:56 — — —Cram-down
- § 7:57 — —Feasibility of plan
- § 7:58 —Objections to confirmation by trustee or holder of
allowed unsecured claim
- § 7:59 Ordering third parties to make payments to trustee
- § 7:60 Certain payments to be made in connection with
debtor's plan
- § 7:61 Effect of confirmation
- § 7:62 Vesting of property of estate in debtor
- § 7:63 Revocation of confirmation order
- § 7:64 Discharge after completion of plan
- § 7:65 Postconfirmation modification
- § 7:66 Hardship discharge—Eligibility
- § 7:67 — —Debtor not accountable for failure to complete
payments
- § 7:68 — —Best-interests-of-creditors-test
- § 7:69 — —Modification of plan not practicable
- § 7:70 —Scope of hardship discharge
- § 7:71 Effect of discharge
- § 7:72 Conversion and dismissal—Reasons for conversion
- § 7:73 —Debtor's right to convert
- § 7:74 —Debtor's dismissal right
- § 7:75 —Conversion or dismissal for cause

CHAPTER 8. BANKRUPTCY AND REAL ESTATE MORTGAGES

- § 8:1 Mortgagee's and debtor's rights in bankruptcy cases
- § 8:2 Bankruptcy default clauses and Chapter 7
- § 8:3 Mortgage payment defaults—Prepetition workouts
- § 8:4 —Default under Chapter 13—Timing of Chapter 13
filing
- § 8:5 Secured creditor defaults—Default under Chapter 13—
The automatic stay
- § 8:6 Mortgage payment defaults—Default under Chapter
13—Relief from the stay
- § 8:7 — —Adequate protection for mortgagee
- § 8:8 Modifying rights of holders of secured and unsecured
claims—Secured claims
- § 8:9 — —Section 1325(a)'s hanging paragraph
- § 8:10 Curing defaults on residential mortgages—Conditions
under which debtor may cure mortgage default
- § 8:11 —Cure over a reasonable time

TABLE OF CONTENTS

- § 8:12 —Long-term debt
- § 8:13 Post-confirmation mortgage disputes
- § 8:14 Chapter 13 and security interests limited to debtor's home—Commencement of payments under Chapter 13 plan
- § 8:15 —Failure to obtain confirmation
- § 8:16 —Default under confirmed plan
- § 8:17 —Effect of discharge—Consummation of plan
- § 8:18 — —Debtor's failure to complete payments under plan
- § 8:19 — —Close of case
- § 8:20 Chapter 13 plan and security interests not limited to debtor's home—Debtor's modification rights and limitations

CHAPTER 9. JUDICIAL LIENS AND SECURITY INTERESTS IN THE DEBTOR'S PERSONAL PROPERTY

- § 9:1 Debtor's personal property—Judicial liens and security interests generally
- § 9:2 The automatic stay
- § 9:3 —Relief from the automatic stay
- § 9:4 Bankruptcy as means of preventing lien enforcement—abandoned property
- § 9:5 —Avoidability of liens—By debtor
- § 9:6 — —By trustee
- § 9:7 —Unavoidable liens—Debtor's options
- § 9:8 — — —Redemption of personal property—By a Chapter 7 individual debtor
- § 9:9 — — —Reaffirmation of personal property with security interests attached
- § 9:10 — — —“Ride Through” option
- § 9:11 — — —Conversion from Chapter 7 to Chapter 13

CHAPTER 10. *[Reserved]*

CHAPTER 11. WAGE GARNISHMENT

- § 11:1 Garnishment procedure
- § 11:2 Federal restrictions
- § 11:3 The wage garnishment scenario
- § 11:4 Prepetition workouts
- § 11:5 Avoiding garnishment of postpetition earnings—Scope of the automatic stay
- § 11:6 —Avoidability of garnishments made during the preference window

- § 11:7 —Relief from the automatic stay
- § 11:8 Avoiding garnishment of prepetition earnings—
Earnings in possession of debtor's employer
- § 11:9 —Prepetition earnings paid to garnishing creditor
- § 11:10 — —Recovery of garnished funds from creditor
- § 11:11 — —Debtor's recovery of garnishment payments
- § 11:12 Effect of dismissal

CHAPTER 12. THE CONSUMER DEBTOR'S CODEBTOR

- § 12:1 Claims against nondebtor guarantors or cosigners
- § 12:2 Claims against codebtors in a Chapter 7 case
- § 12:3 Claims against codebtors under Chapter 13—The
codebtor stay
- § 12:4 — —Limitation to consumer debts
- § 12:5 — —Codebtor an individual
- § 12:6 — —Debts secured in ordinary course of codebtor's
business
- § 12:7 — —Consideration received by codebtor for claim
- § 12:8 — —Insufficient Chapter 13 payments
- § 12:9 — —Irreparable damages
- § 12:10 — —Termination of stay
- § 12:11 — —Annulment of stay
- § 12:12 —Preferred treatment under the Chapter 13 plan

CHAPTER 13. ATTORNEY'S FEES

- § 13:1 Fees for representation in Chapter 7 cases
- § 13:2 Rule 2016
- § 13:3 Retention arrangements
- § 13:4 Scope of retention
- § 13:5 Payment for postpetition services
- § 13:6 Fees for representation in Chapter 13 cases
- § 13:7 Retention and fee arrangements Chapter 13 cases
- § 13:8 Problems facing attorneys in Chapters 7 and 13
cases—Justification of fees
- § 13:9 —Conflict of interest
- § 13:10 —Penalties and forfeiture of fees
- § 13:11 —Source of fees
- § 13:12 —Liens on client records
- § 13:13 —The Chapter 7 trustee's counsel
- § 13:14 —Charging liens
- § 13:15 Procedures after commencement of case—Payment of
fees in Chapter 13 cases
- § 13:16 —Occasions on which debtors' counsel may obtain
fees from creditors

TABLE OF CONTENTS

- § 13:17 Fee-sharing agreements
- § 13:18 Recovering fees from third parties

CHAPTER 14. CONCERNS OF CREDITOR'S COUNSEL

- § 14:1 Introduction
- § 14:2 Home mortgages
- § 14:3 —Determining need for immediate action
- § 14:4 —Preparing and filing proof of claim and request to receive notices
- § 14:5 —Determining avoidability of mortgage liens
- § 14:6 —Reaffirmation
- § 14:7 —Determining appropriateness of Chapter 13 debtor's plan
- § 14:8 —Preconfirmation receipt of Chapter 13 debtor's mortgage payments
- § 14:9 —Relief from the stay
- § 14:10 —Examining secured claims filed by other creditors
- § 14:11 —Monitoring debtor's case
- § 14:12 Automobile encumbrances
- § 14:13 —Determining need for immediate action
- § 14:14 —Preparing and filing proof of claim and request to receive notices
- § 14:15 —Determining avoidability of liens or security interests
- § 14:16 —Turnover of previously repossessed car
- § 14:17 —Foreign jurisdiction
- § 14:18 —Ascertaining value of car
- § 14:19 —Reaffirmation
- § 14:20 —Determining appropriateness of Chapter 13 debtor's plan
- § 14:21 —Preconfirmation receipt of Chapter 13 debtor's payments to trustee
- § 14:22 —Relief from the stay
- § 14:23 —Ensuring maintenance of adequate insurance
- § 14:24 Examining secured claims filed by other creditors
- § 14:25 —Monitoring debtor's case
- § 14:26 Unsecured claims
- § 14:27 —Determining need for immediate action
- § 14:28 —Preparing and filing proof of claim and request to receive notices
- § 14:29 —Ensuring proof of claim becomes part of distribution system
- § 14:30 —Checking all Chapter 7 cases for assets

- § 14:31 —Determining avoidability of liens or security interests
- § 14:32 —Ascertaining dischargeability
- § 14:33 Appeals

Table of Laws and Rules

Table of Cases

Index