

# American Board of Certification

## Study Guide



## Creditors' Rights Law Certification Examinations

April 2009

The following was compiled to serve as a guide for preparing for the American Board of Certification (ABC) exams, and to help applicants prepare for the exam Certification by definition is meant to test a level of knowledge and expertise. The ABC exams are designed to draw on knowledge gained through experience and therefore a great deal of preparation should not be necessary for an attorney who meets the experience and substantial involvement requirements for certification.

In addition to this guide, we recommend that you review the sample examinations that are available free of charge on the ABC website at [www.abcworld.org](http://www.abcworld.org). A list of bankruptcy continuing legal education opportunities can also be found on the ABC website.

---

### ABC Faculty Committee

The ABC Examinations are prepared by the ABC Faculty Committee and are reviewed by the ABC Dean of Faculty. The following are the members of the ABC Faculty Committee:

Dean of Faculty  
Prof. Nathalie Martin  
University of New Mexico School of Law  
Albuquerque, New Mexico

Faculty Committee Members:

Prof. Laura B. Bartell  
Wayne State University  
Detroit, Michigan

Prof. John M. Czarnetzky  
University of Mississippi School of Law  
University, Mississippi

Prof. Alexander L. Edgar  
Notre Dame Law School  
South Bend, Indiana

Prof. Creola Johnson  
Ohio State University Moritz College of  
Law  
Columbus, Ohio

Prof. Margit Livingston  
DePaul University College of  
Law  
Chicago, Illinois

Prof. Katherine M. Porter  
University of Iowa College of  
Law  
Iowa City, Iowa

Prof. Nancy B. Rapoport  
William S. Boyd School of  
Law  
Las Vegas, Nevada

Prof. Laura Spitz  
University of Colorado  
Law School  
Denver, Colorado

Prof. Reynaldo Anaya Valencia  
St. Mary's University School of  
Law  
San Antonio, Texas

Prof. G. Ray Warner  
St. John's University School of Law  
Jamaica, New York

Prof. Michaela White  
Creighton University School of Law  
Omaha, Nebraska

Prof. William Widen  
University of Miami School of Law  
Miami, Florida

---

**Exam Structure**

The six-hour certification examination is divided into the following three sections:

<b>Section</b>	<b>Taken By</b>	<b>Length</b>	<b>Composition</b>
Part I: Creditors' Rights Multiple Choice	Creditors' Rights Certification examinees	2 hours	50 multiple choice questions
Part II: Creditors' Rights Ethics Essay Exam	Creditors' Rights Certification examinees	1 hour (plus additional 15 min. of reading time)	2 essay questions (choose 2 out of 4)
<b>One Hour Lunch Break</b>			
Part III: Creditors' Rights Sub-Specialty Essay Exam	Creditors' Rights Certification examinees	3 hours (plus additional 15 min. of reading time)	4 essay questions (choose 4 out of 6)

Creditors' Rights Law applicants will take the first and second sections of the examination. There will be lunch break of up to one hour at about noon. (You are "on your own"; lunch is not provided to examinees.) Section III will be administered in the afternoon and will be preceded by a 15 minute reading period. The examination will end at approximately 5:00 p.m. On exam day, there may also be individuals taking the Business and or Consumer Bankruptcy Certification Exam.

**Part I, General Creditors' Rights Law**, is a two-hour examination composed of fifty multiple-choice questions about general creditors' rights law issues. The questions cover a range of creditors' rights issues, as well as questions relating to procedure and

special creditors' rights powers. Because this is a national examination, we have attempted to limit the questions to well-established principles. The questions in this section range from easy to very hard. It is not expected that anyone will correctly answer every question, but we do expect that a reasonably competent creditors' rights practitioner will achieve a passing score without extensive study. As you prepare for this section, we suggest that you focus your efforts on a review of the Bankruptcy Code and Rules, and the Supreme Court's cases in the creditors' rights field.

In taking this section of the examination, you should attempt to choose the best answer from among the four choices. You will not be penalized for wrong answers, so you should answer every question, even if you are not certain of your answer. We have done our best to insure that the multiple-choice questions are unambiguous and that our "correct" answers represent settled law. However, if, after taking the examination, you believe a particular question is ambiguous, or has two or more "best" answers, you may request a "Multiple Choice Objection" form for submission to the ABC Faculty Committee.

In **Part II, the Ethics Section**, you are given four short ethics questions. After a fifteen minute reading period to review the questions before the examination begins, you must answer any two of them in one hour. We have attempted to draft questions that reflect the real-life ethical problems a creditors' rights lawyer faces. Although it is important that you identify the ethical issues and reach a correct conclusion, your answers will be graded primarily on the quality of your analysis and explanation. Thus, it is critically important that you explain your conclusions thoroughly. An answer reaching the correct result, but failing to explain your reasoning, will be given a failing grade. In order to pass the Ethics section, you must pass two ethics questions. Your answers will be graded on a pass/fail basis. The scores on the two questions will not be averaged.

For **Part III, the Sub-Specialty section**, you are given six questions. After a fifteen minute reading period to review the questions before the examination begins, you must answer any four of them in three hours. Like the Ethics short-essay section, your answers to the sub-specialty questions will be graded primarily on the quality of your analysis and explanation. Thus, it is critically important that you explain your conclusions thoroughly. An answer reaching the correct result, but failing to explain your reasoning, will be given a failing grade.

In order to pass the sub-specialty section, you must pass all four questions. Your answers will be graded on a pass/fail basis. The scores on the four questions will not be averaged. You may wish to bring a quiet calculator, because the questions may require some mathematical calculations. Although minor mathematical errors will not affect your score, your answer should contain such general calculations and estimates as you are able to make in providing the advice called for in the question.

Questions in the sub-specialty tests are designed to present real-life situations that a creditors' rights law specialist might encounter in practice. The questions raise both "run-of-the-mill" issues and some issues on the cutting edge of the law.

## **Allowed Materials**

You can bring unannotated copies of three resources into the entire exam: the Bankruptcy code, the Uniform Commercial Code, and (if you bring your own copy) a copy of your own state's ethical rules. Your proctor may have copies of the Bankruptcy Code and the UCC that you can borrow for the exam, but no ethical rules will be provided

You may consult these materials in preparing your answers. You may not consult any other outside materials. You may, however, bring a QUIET calculator. We will provide #2 pencils for the multiple-choice section and ink pens for your essay answers.

## **Exam Scores**

Exam Scores are issued three-four months following the test date.

## **Creditors' Rights Knowledge Tested**

There are three Parts to the certification exam in Creditors' Rights. Part I is in the form of fifty (50) multiple choice questions. Part I will test candidates on their knowledge and general information on creditors' rights topics. All candidates for certification in Creditors' Rights will be required to pass Part I of the test for certification. Candidates are given two hours to complete Part I of the exam.

Part II of the certification exam is on the topic of Legal Ethics. Candidates are given the choice of answering two out of four possible questions. The questions (and answers) are in essay form. Candidates are given one hour to complete Part II of the exam. Suggested time for each question: 30 minutes.

Candidates seeking certification in the Creditors' Rights sub-specialty must answer four essay questions out of six addressing creditors' rights issues. Candidates are given three hours to complete Part III of the exam. Suggested time for each question: 45 minutes.

The importance of the knowledge or skill required to answer each topic for acceptable certification level performance is indicated next to each topic. All topics may be covered in multiple choice or essay questions, although ethics will be covered in more depth in the essay questions.

- # 1 – Not important
- #2 – Minimally important
- #3 – Moderately important
- #4 – Very Important

### **Collection Actions**

CR1. Prejudgment Remedies	3
CR2. Postjudgment Remedies	4
CR3. Limitations on wage garnishments	3
CR4. Enforcement on non-U.S. judgments	2
CR5. Domestication of judgments from other states	4
CR6. Fair Debt Collection Practices Act	4
CR7. Receiverships	3
CR8. Exemptions (state law)	3
CR9. Exemptions (federal law)	3
CR10. Constructive trusts and other equitable remedies	2
CR11. Fair Credit Reporting Act	3

CR12. Equal Credit Opportunity Act & Reg. B	2
CR13. Truth in Lending rescission	2
CR14. FTC holder in due course	2
CR15. Federal Priority Statute	3
CR16. Federal Debt Collection Procedure Act	2
CR17. Servicemembers Civil Relief Act	3
CR18. Guarantor liability	2

### **Liens and Security Interests**

CR19. Creation or attachment	4
CR20. Perfection	4
CR21. Priority	3
CR22. Enforcement and remedies	4
CR23. Federal tax liens	2
CR 24. Sale v. lease	3
CR25. Consignments	3
CR26. Disposition of collateral and tracing	2
CR27. Proceeds	2
CR28. Debtor liability for conversion of collateral	2

### **Trial Issues**

CR29. Federal Rules of Civil Procedure	3
CR30. Prejudgment discovery	2
CR31. Postjudgment discovery	3
CR32. Long-arm jurisdiction	2
CR33. Federal Rules of Evidence (business records, Settlement discussions, judicial notice)	3
CR34. Arbitration	3

## **Bankruptcy**

CR35. Federal Rules of Bankruptcy Procedure	3
CR36. Exemptions (state and federal)	3
CR37. Eligibility for filing, and relief available under, various chapters of Code	2
CR38. Involuntary petitions	3
CR39. Automatic stay (applicability and exceptions)	4
CR40. Claims allowability and calculations	3
CR41. Setoff and recoupment	2
CR42. Reclamation & § 503(b)(9)	3
CR43. Preferential transfers	4
CR44. Strong –arm power § 544(a)	3
CR45. Other avoidance powers (fraudulent transfers/ Postpetition transfers)	2
CR46. Discharge - scope and dischargeable debts	2
CR47. Plan confirmation	2
CR48. Reaffirmaion, redemption and ride through	3

## **Ethics**

CR49. Conflicts of interest	4
CR50. Employment and withdrawal	2
CR51. Rule 9011	3
CR52. Client wrongdoing	2
CR53. Duty of Candor	2

## **UCC Issues**

CR54. Article 2 (enforceability and remedies generally)	3
CR55. Reclamation and stoppage in transit	4
CR56. Article 3 and § 9-404 (Holder in Due Course elements and rights)	3

CR57. Article 7 - documents of title	3
CR58. Covention on International Sale of Goods	2