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I. INTRODUCTION

The term “bankruptcy” refers to the “statutory procedure by which a...debtor obtains financial relief and undergoes a judicially supervised reorganization or liquidation of the debtor’s assets for the benefit of creditors.” *Black’s Law Dictionary*, 11th ed. Bankruptcy affects all segments of American society, from individuals and small businesses to high-profile corporations like Enron and General Motors to municipalities like Detroit. This research guide provides starting points for research on United States bankruptcy law, including key primary and secondary sources and sources of bankruptcy legislative history documents, both in print and online, as well as sources of data about bankruptcies in the United States.

Online collections of bankruptcy law materials

Bloomberg Law, LexisNexis, and Thomson Reuters Westlaw all offer comprehensive bankruptcy

practice centers or areas, which are convenient starting places for research. These practice centers collect both primary and secondary sources.

- **Bloomberg Law**'s *Bankruptcy* practice center includes cases, statutes, and court rules, as well as an online-only bankruptcy treatise, dockets and bankruptcy filings, and transactional resources related to bankruptcy.
- In the *Bankruptcy Law* practice area on **Lexis+**, content includes cases, statutes, and court rules, along with the treatise *Collier on Bankruptcy* and several other *Collier* publications. The Practical Guidance area of **Lexis+** offers a topic-based approach to sources with an emphasis on transactional aspects of bankruptcy like workouts and out-of-court corporate restructurings. Current bankruptcy news articles from Law360 also appear here.
- Like the other services, **Westlaw**'s *Bankruptcy* practice area features cases, statutes, and court rules. Additional notable content here includes the treatise *Norton Bankruptcy Law & Practice* and other *Norton* publications, bankruptcy data, and *Practical Law*'s practice tools like forms, checklists, and "tool kits" (commentary and lists of resources on bankruptcy sub-topics).

II. PRIMARY SOURCES

Article 1, Section 8 of the United States Constitution authorizes Congress to establish "uniform Laws on the subject of Bankruptcies throughout the United States." Bankruptcy law is, therefore, largely a matter of federal law, although bankruptcy law operates against a backdrop of rights created by state law as well.

A. Statutes

Today, bankruptcy is governed primarily by the **Bankruptcy Reform Act of 1978**, as amended, which is known as the "Bankruptcy Code." Congress made substantial amendments to the Bankruptcy Code in 1984, 1986, 1994, and 2005. The **Bankruptcy Act of 1898** (known as the "Bankruptcy Act") governed cases filed before October 1, 1979. There are still references to the Bankruptcy Act in the Bankruptcy Code and in secondary sources, and courts may refer to analogous Bankruptcy Act provisions in interpreting the Bankruptcy Code.

The current version of the **Bankruptcy Code** is codified at **Title 11** of the United States Code. (Certain sections of Titles 18, 26, 28, and 50 of the U.S.C. also apply to bankruptcy.) Title 11 is further divided into chapters, and bankruptcy cases are described by the chapter of the Bankruptcy Code under which they arise:

- Chapter 7 – Liquidation
- Chapter 9 – Adjustment of Debts of a Municipality
- Chapter 11 – Reorganization
- Chapter 12 – Adjustment of Debts of a Family Farmer or Fisherman with Regular Income
- Chapter 13 – Adjustments of Debts of an Individual with Regular Income
- Chapter 15 – Ancillary and Other-Cross Border Cases

Important provisions of Chapters 1 (General Provisions), 3 (Case Administration), and 5 (Creditors, the Debtor, and the Estate) apply to bankruptcy cases arising under the other chapters of the Bankruptcy Code.

In print, the Bankruptcy Code can be found in official and unofficial (annotated) versions of the **United States Code (U.S.C., U.S.C.A., and U.S.C.S.)**, which are shelved in the Stevens Federal Area. In addition, the text of the Bankruptcy Code is reproduced in comprehensive treatises, such as *Collier on Bankruptcy*, 16th ed. (KF1524 .C655, further described below), and in annual pamphlet editions like the *Collier Portable Pamphlet* (KF1524 .C588, current year on Reserve, earlier years on level 2). When Congress makes substantial amendments to the Bankruptcy Code, publishers also issue special editions of the new law, highlighting changes from existing law, such as *Bankruptcy Abuse and Prevention Act and Consumer Protection Act of 2005: Law and Explanation* (KF1511.597 .W55 2005).

Online, unannotated versions of Title 11 are available free in the *U.S. Code* in the GPO's **govinfo.gov** (<https://www.govinfo.gov/app/collection/uscode/2018/title11>) and from Cornell's **Legal Information Institute** (<http://www.law.cornell.edu/uscode/text/11>). Annotated versions of the Bankruptcy Code are available in the bankruptcy practice centers on **Lexis+** and **Westlaw** described in Part I above. Title 11 is also found in the bankruptcy practice center on **Bloomberg Law**, and additional titles of the U.S.C. that affect bankruptcy are conveniently linked under "Other U.S. Federal Bankruptcy Provisions."

B. Cases

Bankruptcy decisions can come from several federal courts. Most bankruptcy cases begin in the U.S. Bankruptcy Courts, which for constitutional reasons are a unit of the federal district courts. Cases that are initially heard in bankruptcy court may then be appealed either to the U.S. District Court or to a Bankruptcy Appellate Panel (an administrative alternative to district courts in some circuits). Cases may be further appealed to the U.S. Courts of Appeals and the U.S. Supreme Court.

There are several specialized print reporters for bankruptcy decisions, and no single one of them contains all bankruptcy decisions. Duke Law researchers have access to *West's Bankruptcy Reporter* (through Westlaw) and *Collier Bankruptcy Cases* (Library Service Center KF1524 .C65). *West's Bankruptcy Reporter* reports more cases than other specialized reporters, and the decisions follow the standard West reporting format, with topics, key numbers, and headnotes. *Collier Bankruptcy Cases* complements a leading treatise (see *Collier on Bankruptcy*, below) and selectively reports cases decided under the Bankruptcy Code. (Other specialized reporters include *Bankruptcy Court Decisions* and Wolters Kluwer's *Bankruptcy Law Reporter*.)

Online, federal bankruptcy cases are found in the bankruptcy practice centers on **Lexis+**, **Westlaw**, and **Bloomberg Law** described in Part I above. Bloomberg Law also includes state court bankruptcy and insolvency opinions and federal court dockets.

C. Bankruptcy Rules and Official Forms

Bankruptcy cases are governed by the **Federal Rules of Bankruptcy Procedure**, also known as the "**Bankruptcy Rules**." The Bankruptcy Rules are promulgated by the U.S. Supreme Court and were last amended effective December 1, 2020. The Bankruptcy Rules also prescribe the use of Official Forms in bankruptcy cases.

The Bankruptcy Rules and Official Forms are available in print and online. In print, they can be found as part of the official and unofficial versions of the **United States Code**. The Bankruptcy Rules are located in an appendix to Title 11 in the official **U.S.C.**, appearing after Chapter 15 of the Bankruptcy Code. The U.S.C. refers users to the website of the United States Courts (see below) for the Official Forms.

Annotated Bankruptcy Rules are located in volumes shelved immediately after Title 11 in the print **U.S.C.A.** In addition, Bankruptcy Appellate Panel rules are available in an appendix to the rules volumes. In the print **U.S.C.S.**, both the Bankruptcy Rules and the Official Forms are found in the court rules volumes at end of the set.

The Bankruptcy Rules can also be found in commercially produced annual pamphlet editions, such as the *Collier Portable Pamphlet* (KF1524 .C588, current year on Reserve, earlier years on level 2), and in the leading treatises (*Collier* and *Norton*, below).

The Bankruptcy Rules are available online in free, unannotated versions from **Cornell's Legal Information Institute** (<http://www.law.cornell.edu/rules/frbp>) and from the **Administrative Office of the United States Courts** (<http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-bankruptcy-procedure>). The Administrative Office's website also provides access to the Official Forms and additional procedural forms (<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>).

Annotated versions of the Bankruptcy Rules and Official Forms are available in the bankruptcy practice centers on **Lexis+** and **Westlaw** described in Part I above. On **Bloomberg Law**, unannotated Bankruptcy Rules, Official Forms, and procedural forms are available in the bankruptcy practice center.

Individual bankruptcy courts also issue their own local rules and forms, which are available at the courts' websites. See, for example, the website of United States Bankruptcy Court for the Eastern District of North Carolina in Raleigh, which includes Local Rules and Orders (<http://www.nceb.uscourts.gov/court-info/local-rules-and-orders>) and Local Forms (<http://www.nceb.uscourts.gov/local-forms>). In addition, an annotated version of the local rules of popular corporate bankruptcy venues like New York and Delaware can be found in the *Local Rules and Practices Toolkit* in the bankruptcy and restructuring practice area on **Practical Law** (accessible through Westlaw).

III. SECONDARY SOURCES

A good starting place for a researcher new to bankruptcy is *Bankruptcy Basics*, a publication of the Administrative Office of the U.S. Courts (available at <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx> and in the *Bankruptcy Practice Center* on Bloomberg Law). This plain-English guide introduces bankruptcy laws and the bankruptcy process. Other helpful introductory works include *Bankruptcy and Related Law in a Nutshell*, 9th ed. (Reserve KF1501 .Z9 E67 2017 and in West Academic Library Study Aids) and *Understanding Bankruptcy*, 4th ed. (Reserve KF1524 .F47 2019).

A. Books and Treatises

1. Comprehensive treatises

The two leading treatises on bankruptcy are *Collier on Bankruptcy* and *Norton Bankruptcy Law and Practice*. In addition, Bloomberg Law recently published a new, online-only bankruptcy treatise. All three treatises examine the Bankruptcy Code and Rules comprehensively.

Alan N. Resnick and Henry J. Sommer, eds., *Collier on Bankruptcy*, 16th ed. (KF1524 .C655 and on Lexis+).

This classic work, published in a new edition after the 2005 amendments to the Bankruptcy Code, provides a detailed section-by-section analysis of the Bankruptcy Code and Rules. Additional volumes cover bankruptcy taxation and state law exemptions. Appendices reproduce the texts of the current Bankruptcy Code, Bankruptcy Rules, related laws, and the Bankruptcy Act of 1898. Legislative history materials for major amendments to the Bankruptcy Code are also included. Also reprinted is the text of the 1997 final report of the National Bankruptcy Review Commission, which reviewed the state of bankruptcy law in the years after the 1978 reforms and made recommendations to Congress for further improvement of bankruptcy law and procedure.

Earlier editions of *Collier on Bankruptcy* (1st-12th) are available on HeinOnline. Many additional *Collier* publications are also available on Lexis+.

William L. Norton, Jr. and William L. Norton, III, eds., *Norton Bankruptcy Law and Practice*, 3d ed. (KF 1524 .N76722 and on Westlaw).

Written and edited by a former bankruptcy judge, this multivolume treatise consists of three substantive parts: first, an introduction to bankruptcy law and practice; second, a detailed section-by-section analysis of the Bankruptcy Code; and third, analysis of related laws and issues. Appendix volumes reproduce the Bankruptcy Code and Rules, related provisions of other chapters of the U.S.C., and selected legislative history materials. They also include finding aids and the *Norton Dictionary of Bankruptcy Terms*.

Additional *Norton* publications are available on Westlaw.

Samir D. Parikh, et al., eds., *Bloomberg Law: Bankruptcy Treatise* (on Bloomberg Law).

Like *Collier* and *Norton*, this frequently-updated online treatise analyzes the Bankruptcy Code and Rules section by section. Additional features include essays on special issues in bankruptcy, such as claims trading, constitutional issues, statutory construction, and ethics, as well as summaries of key provisions of local rules for each bankruptcy court. Appendices reproduce current bankruptcy laws and rules and historical bankruptcy statutes back to 1800 and include a quick reference guide to state

exemptions statutes and rules.

2. Narrower works

Many narrower works cover individual chapters of the Bankruptcy Code, specific aspects of bankruptcy cases, and bankruptcy from the perspectives of different parties. Examples include:

Stan Bernstein, et al., *Business Bankruptcy Essentials* (on Bloomberg Law).

An introduction to business bankruptcies for the non-bankruptcy practitioner, published by the American Bar Association.

W. Homer Drake, Jr. and Christopher S. Strickland, *Chapter 11 Reorganizations*, 2d ed. (KF1544 .A953 and on Westlaw).

This guide, written by a bankruptcy judge and a bankruptcy practitioner, explains the reorganization process under Chapter 11 of the Bankruptcy Code, offers advice on each step of that process, and discusses the roles of the various parties in bankruptcy cases.

Stephen Elias, et al., *How to File for Chapter 7 Bankruptcy*, 21st ed. (Reference KF1524.85 .H685 2019) and *Chapter 13 Bankruptcy*, 15th ed. (Reference KF1524.85 .L46 2020).

Written for the consumer, these Nolo Press publications explain the bankruptcy process, guide debtors through that process under Chapter 7 or Chapter 13, and offer advice for rebuilding credit after bankruptcy. Helpful features include charts of state exemptions with citations to state statutes, worksheets, checklists, sample documents, and a glossary.

Sally McDonald Henry, *The New Bankruptcy Code: Cases, Developments, and Practice Insights Since BAPCPA* (KF1511.597 H46 2007).

This handbook from the ABA Section of Business Law answers frequently asked questions arising from the 2005 amendments to the Bankruptcy Code. Arranged by Bankruptcy Code chapter, it describes notable cases interpreting and applying the amendments and reproduces illustrative court orders. Also includes a chart comparing timing and deadlines in bankruptcy cases before and after the amendments.

Lynn M. LoPucki and Christopher R. Mirick, *Strategies for Creditors in Bankruptcy Proceedings*, 6th ed. (KF1524 .L57 2015).

Written by a well-known law professor and bankruptcy empiricist, this book provides tactical advice for secured and unsecured creditors before bankruptcy and in Chapter 7, 11, and 13 bankruptcy cases.

Robert K. Rasmussen, ed., *Bankruptcy Law Stories* (Reserves KF1524 .B357 2007 and online in West Academic Library Study Aids).

A collection of essays in which law professors tell the stories behind significant bankruptcy cases and provide insights into their larger implications.

Shayna M. Steinfeld and Bruce R. Steinfeld, *The Family Lawyer's Guide to Bankruptcy: Forms, Tips, and Strategies*, 2d ed. (KF1535 .D58 S74 2008).

This ABA handbook provides an introduction to bankruptcy for the divorce practitioner. It addresses the kinds of debts that arise in a divorce case and discusses bankruptcy under chapters 7, 11, and 13 in that context. It also offers advice for pre-bankruptcy planning. It includes extensive case citations, forms, and a glossary of bankruptcy terms.

3. ABI Institute Books and Continuing Legal Education Materials

The American Bankruptcy Institute (“ABI,” www.abiworld.org) is non-partisan organization dedicated to research and education on insolvency matters, and its members include professors, judges, attorneys, and other bankruptcy professionals. Many ABI publications covering consumer, corporate, and municipal bankruptcies are available in the Bankruptcy Practice Center on Bloomberg Law. Examples include *Consumer Bankruptcy: Fundamentals of Chapter 7 and Chapter 13 of the U.S. Bankruptcy Code* and *Pre-Bankruptcy Planning for the Commercial Reorganization*. These publications range from introductory to very specialized works and include multidisciplinary topics, such as family law, telecommunications, financial services, and military law.

Also, continuing legal education materials from ABI conferences (beginning with Winter 2000) are available on Westlaw in the **American Bankruptcy Institute Conference Material** database. In addition to these books and CLE materials, the ABI also publishes two journals, described below.

B. Periodicals, Websites, and Blogs

1. Scholarly Journals

American Bankruptcy Institute Law Review (recent issues in Periodicals, older issues at Library Service Center; on Bloomberg Law, HeinOnline, Lexis+, Westlaw).

This semiannual journal of the ABI publishes scholarly articles edited by students at St. John’s University School of Law. Each issue usually covers a single theme.

American Bankruptcy Law Journal (recent issues in Periodicals, older issues at Library Service Center; on Bloomberg Law, HeinOnline, Lexis+, Westlaw).

This peer-reviewed journal of the National Conference of Bankruptcy Judges focuses on bankruptcy law and related subjects.

Emory Bankruptcy Developments Journal (on Bloomberg Law, HeinOnline, Lexis+, Westlaw; 2004-2014 at Library Service Center).

This semiannual, student-run journal covers bankruptcy and restructuring and includes an annual symposium.

Norton Annual Survey of Bankruptcy Law (on Westlaw; 2006-2011 at Library Service Center).

Published by the authors of the *Norton* treatise, this journal includes articles on bankruptcy topics of current interest and describes developments in bankruptcy law annually.

2. Newsletters/Current Awareness Sources

Several newsletters can help researchers stay on top of current developments in bankruptcy law under all chapters of the Bankruptcy Code. Examples include:

American Bankruptcy Institute Journal (on Bloomberg Law, Lexis+, Westlaw).

This monthly magazine for insolvency professionals provides bankruptcy news, practical articles, and legislative updates.

Bankruptcy Court Decisions Weekly News & Comments (on Westlaw).

This newsletter includes industry news, professional profiles, and legislative and court updates.

Bankruptcy Law News (on Bloomberg Law).

Provides daily news coverage of commercial and consumer bankruptcy laws and major commercial cases.

Norton Bankruptcy Law Adviser (on Westlaw).

A practical monthly newsletter, edited by bankruptcy judges, covering bankruptcy legislative and case developments.

In addition, more narrowly-focused newsletters focus on emerging issues and cover bankruptcies under specific chapters of the Bankruptcy Code and in specific industries. These newsletters often reproduce pleadings from notable cases. For example, ***Westlaw Journal Bankruptcy*** (on Westlaw) focuses on litigation related to corporate bankruptcies.

3. Websites and Blogs

Bankruptcy Blog (<https://business-finance-restructuring.weil.com/>)

News and analysis of developments in corporate restructuring from the law firm of Weil, Gotshal & Manges.

Bankruptcy Law Network (<http://www.bankruptcylawnetwork.com/blog/>)

Written by bankruptcy lawyers and consumer advocates, this blog focuses on consumer bankruptcies. It also includes a plain-English glossary of selected bankruptcy terms.

C. Commercial Forms and Checklists

Commercially produced forms and checklists, available in print and online, can be helpful aids in drafting bankruptcy documents. In print, six appendix volumes to the treatise ***Collier on Bankruptcy*** (KF1524 .C655, treatise description above) provide extensive forms for both business and consumer bankruptcies. These forms are also available online in the treatise on **Lexis+**.

Forms from additional, more specialized *Collier* publications are also available on Lexis+. For example, bankruptcy forms related to divorce and child support are available in ***Collier Family Law and the Bankruptcy Code***. State-specific bankruptcy forms are also found on Lexis+.

The **Bankruptcy Agreements** database on **Westlaw** includes actual contracts, financing documents, and plans of liquidation and reorganization that were filed as exhibits to filings with the Securities and Exchange Commission. In addition, the bankruptcy materials from **Practical Law** on Westlaw include standard documents and clauses, as well as checklists.

ALI-ABA and ABI forms are available in **Bloomberg Law's** Bankruptcy Practice Center. Also available on Bloomberg Law is the ABA's ***Bankruptcy Deadline Checklist***, a quick reference guide to deadlines and filing requirements for cases arising under all chapters of the Bankruptcy Code and the Bankruptcy Rules.

IV. LEGISLATIVE HISTORIES

Compiled legislative histories of the Bankruptcy Act, the Bankruptcy Code, and significant amendments to the Code are available in a variety of print and online sources. (To research the legislative history of bankruptcy statutes not covered by compiled legislative histories, see the Goodson Law Library's Federal Legislative History research guide, available at <https://law.duke.edu/lib/research-guides/federal-legislative-history/>.)

A. Compiled legislative histories in print

Mickie A. Voges and Kathy E. Shimpock, *The Bankruptcy Reform Act of 1978: Analysis, Legislative History and Selected Bibliography* (KF1506 .V64 1981).

This bibliography describes the changes to bankruptcy law brought about by the 1978 Act, provides a brief narrative summary of its legislative history, and lists hearings, committee prints, committee reports, debates, and bills pertaining to the Act.

Collier on Bankruptcy, 16th ed. (KF1524 .C655 and on Lexis+; treatise description above).

Six volumes of appendices reproduce extensive legislative history materials from the Bankruptcy Act, the Bankruptcy Code, and amendments to the Code. Introductory commentary is followed by the text of session laws, floor debate, and committee reports.

Norton Bankruptcy Law and Practice, 3d ed. (KF1524 .N76722 and on Westlaw; treatise description above).

"Norton's Annotated Legislative History," found in volume 10 of the treatise, reproduces the Bankruptcy Code with annotations explaining, section-by-section, its legislative history from the enactment of the Code in 1978 through the present. Annotations include excerpts from relevant committee reports and floor debate, as well as editorial commentary and references to key cases.

B. Compiled legislative histories online

HeinOnline provides extensive compiled legislative history materials for bankruptcy laws going back to 1938 in its "History of Bankruptcy: Taxation & Economic Reform in America Part III" collection. This collection also includes Congressional Research Service reports and historical treatises, articles, and case reporters. Bankruptcy legislative histories are also available in Hein's "U.S. Federal Legislative History Library."

ProQuest Legislative Insight includes compiled legislative histories of the 1978 Act and all of its major amendments. These detailed legislative histories include documents from multiple sessions of Congress, where relevant, including bills, floor debates, hearings, committee prints, and presidential signing statements. Congressional Research Service reports are also available for some of the laws.

On **Westlaw**, the U.S. GAO Federal Legislative Histories database includes a compiled legislative history of the 1978 Bankruptcy Reform Act (easily retrieved by Public Law Number 95-598), as well as many of the major amendments to the Bankruptcy Code through 1995. Compiled legislative histories for the 1978 Act and several major amendments to the Bankruptcy Code are also available in the Arnold & Porter Legislative Histories databases.

Key historical bankruptcy legislation from the Bankruptcy Act of 1800 through the Bankruptcy Reform Act of 1994 is easily found on **Bloomberg Law** under Prior Bankruptcy Acts in the

Bankruptcy Practice Center. Historical versions of the entire U.S. Code from 1925-1988 are also available free from the **Library of Congress** (<https://www.loc.gov/collections/united-states-code/>).

V. BANKRUPTCY DATA SOURCES

Factual and statistical data about bankruptcy petitions and bankruptcy filers can be found in the following data sets.

Bankruptcy DataSource (on Westlaw)

Data compiled by New Generation Research provides information about “publicly traded companies with assets in excess of \$50 million that are in bankruptcy proceedings.” Information includes debtor name and employer identification number, chapter, date of filing, case number, filing district and judge, name and address of debtor’s counsel, names of officers and corporate auditors, description of the business, security ownership, and case status. Updated monthly.

Bankruptcy Statistics (<http://www.uscourts.gov/Statistics/BankruptcyStatistics.aspx>)

Data reported to the Administrative Office of the U.S. Courts includes statistics on bankruptcy petition filings, in some instances back to 1960, statistics on consumer bankruptcies required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and PACER bankruptcy statistics. (The latter requires use of a PACER password.)

UCLA-LoPucki Bankruptcy Research Database (“BRD”) (<http://lopucki.law.ucla.edu/>)

BRD provides data about approximately 1,000 large public company bankruptcies filed since October 1, 1979 (the effective date of the Bankruptcy Code). An abbreviated version of the database is available to the public at the URL above, and the full data set is available to academics for identified research projects intended for publication. The abbreviated version allows researchers to view data by company, use an interactive spreadsheet, and design customized studies.

Laura M. Scott
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