The most important source of law in bankruptcy cases is, of course, the statute itself. The Bankruptcy Code, which is title 11 of the United States Code, was meant to be a comprehensive body of law, gathering from other parts of the United States Code all those provisions dealing with the substantive law of bankruptcy.

As with any comprehensive code, frequent reference to the definitions is critically important. The definitions applicable throughout the Bankruptcy Code are contained in section 101 of the statute. Among the many terms defined are “claim,” “consumer debt,” “creditor,” “current monthly income,” “debtor,” “domestic support obligation,” “entity,” “governmental unit,” “judicial lien,” “lien,” “statutory lien,” “security interest,” “person,” and “transfer.” In addition to these general definitions, various other chapters of the Code contain definitions of other terms applicable only to those chapters.

The first chapter of the Code also contains rules of construction. Most important among these is the use of the phrase “after notice and a hearing.” Depending on the circumstances, this phrase may not mean that a hearing will actually take place. Other rules explain use of the words “or,” “includes,” and “order for relief.”

Chapter 1 also provides an explanation of the Code’s structure. One should always remember that chapters 1, 3, and 5 of the Code are applicable to all proceedings under any chapter of the Code, except chapter 15, unless a provision of that specific chapter provides otherwise. In contrast, chapters 7, 9, 11, 12, 13, and 15 are only applicable to cases brought under those chapters respectively.

The Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 enacted amendments to the Bankruptcy Code to phase-in the United States trustee program. The United States trustee program has now become operative in every district, except those in North Carolina and Alabama.

Footnotes


Source: National Consumer Law Center, Consumer Bankruptcy Law and Practice [12th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/bankr/01040101

Links
[1] https://library.nclc.org/nclc/link/Bankr.02.07