

# VISUALIZING BANKRUPTCY

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# VISUALIZING BANKRUPTCY

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ISBN: 978-1-4224-8229-2

Library of Congress Cataloging-in-Publication Data

Bartell, Laura B.  
Visualizing bankruptcy / Laura B. Bartell.  
p. cm.  
Includes index.  
ISBN 978-1-4224-8229-2 (soft cover)  
1. Bankruptcy--United States. I. Title.  
KF1524.85.B37 2011  
346.7307'8--dc23

2011032493

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MATTHEW  BENDER

# PREFACE

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Bankruptcy law is inherently political. This is hardly surprising; the law creates winners and losers, and the subject over which they are battling is money. But the political process does not always produce the most elegantly drafted legislation. Our current federal bankruptcy law, 11 U.S.C. §§ 101-1532, is a telling example of that fact.

Although permanent federal bankruptcy legislation in the United States dates back to 1898 (the Bankruptcy Act of 1898, ch. 541, 30 Stat. 544 (1989) (repealed 1978)), our modern bankruptcy law, created by the Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, 92 Stat. 2549 (1978) (familarly known as the “Bankruptcy Code”), was the product of many years of political debate. Since its enactment it, has been amended in significant respects several times, most recently by the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), Pub. L. No. 109-8, 119 Stat. 23 (2005), which was motivated in large part by the efforts of the consumer credit industry to make bankruptcy less hospitable to consumer debtors. The process by which our current bankruptcy laws have been enacted has resulted in statutory provisions that are often lengthy, convoluted, difficult to parse and sometimes incoherent.

Under the best of circumstances, statutory analysis is difficult for anyone unused to it, and for a student taking a course in bankruptcy law, reading provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure can be a daunting task. During my many years of teaching bankruptcy, I have found that a summary of statutory provisions in visual form makes those provisions much easier to grasp for my students. Law students tend to be visual learners, craving visual aids to make sense out of language and intellectual concepts. The more difficult the language or concepts, the more useful a visual aid may be.

I am the first to admit that visualizing the Bankruptcy Code and Rules requires a loss of nuance, a simplification of concepts that were intended to be more complex. No one would try to practice bankruptcy law from the charts included in this book. But for a law student, who is generally given a broad survey of how bankruptcy works, without getting into a great deal of depth, visualizing legislative language can be very helpful.

This book contains the many charts and other visual aids I have used in my classes. They are organized not by chapter of the Bankruptcy Code (for the most part) but chronologically by the normal course of a bankruptcy case. I have included some specialized bankruptcy topics (chapters 9, 12 and 15) at the end of the book; they are not ordinarily included in a law school bankruptcy course, but are of sufficient general interest to visualize.



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