

# Teaching guide

## IDENTIFICATION DETAILS

Degree:	Law		
Field of Knowledge:	Social and Legal Sciences		
Faculty/School:	Law, Business and Government		
Course:	BANKRUPTCY LAW		
Type:	Compulsory	ECTS credits:	3
Year:	4	Code:	7242
Teaching period:	Seventh semester		
Subject:	Commercial Law		
Module:	Private Law		
Teaching type:	Classroom-based		
Language:	Spanish		
Total number of student study hours:	75		

## SUBJECT DESCRIPTION

The purpose of this course is to know and apply, fundamentally from the point of view of private law, the rules that regulate situations of financial insolvency of debtors. The course is fundamentally based on the Spanish legal system, although brief references are made to cross-border insolvencies.

The course addresses the response that the legal system provides to debtors and creditors in situations of insolvency, in order to promote the recovery of the former and their reintegration into the productive and consumer fabric, and to guarantee the due protection of the latter's right to credit.

After studying throughout the Degree the rights and obligations that correspond to the parties of a mandatory relationship under the premise of the debtor's solvency, this course allows the student to understand the special legal treatment they require when insolvency occurs.

The course provides students with theoretical and practical knowledge of bankruptcy proceedings, its framework in the legal system, its objectives, foundations and informing principles, in order to be able to recognize and prevent insolvency situations, to discern the need and convenience of requesting a debtor's declaration of bankruptcy and protecting the credit rights of affected creditors.

## GOAL

To know and understand from a legal, economic and human point of view the current reality in our country, trying to provide legal solutions to avoid bankruptcy situations, and if they exist, to know the most appropriate legal channels for the protection of the interests involved in it and for the proper conduct of the bankruptcy.

The specific aims of the subject are:

Analyze the efficiency and effectiveness inherent to bankruptcy law and its connection with business ethics.

Involve the student in the multidisciplinary and cross-cutting regulation entailed by the diversity of interests present in a debtor's insolvency situations.

Involve the student in the need to mitigate the damages derived from business insolvencies and to maintain commercial trust and credit for the proper functioning of a reliable and fair legal and economic system for market operators.

## PRIOR KNOWLEDGE

It is recommended that students have passed the subjects of General Theory of Obligations and Contracts, Civil and Commercial Contracts, Accounting for Jurists and Company Law for maximum use and understanding of the subject. In addition, a good knowledge of Civil Procedure Law is necessary.

## COURSE SYLLABUS

1. Introduction to Bankruptcy Law
  - 1.1. Economic and social function of insolvency law: current trends in comparative law
  - 1.2. Characters of the Spanish insolvency law: Bankruptcy law, pre-bankruptcy law and para-bankruptcy law
  - 1.3. The bankruptcy procedure: structure, regulation, informing principles and basic procedural aspects
2. The bankruptcy declaration and the organs of the proceedings
  - 2.1. Budgets from the bankruptcy declaration: subjective budget and objective budget
  - 2.2. The application for bankruptcy: legitimation and processing
  - 2.3. The judicial declaration of bankruptcy and related tenders
  - 2.4. The bankruptcy bodies: the bankruptcy judge and the bankruptcy administration
3. Effects of the bankruptcy declaration
  - 3.1. Effects on the debtor

- 3.2. Effects on creditors: effects on individual actions and effects on credits
- 3.3. Effects on contracts
- 4. The active mass of bankruptcy
  - 4.1. Composition of the active mass: reintegration and reduction of the active mass
  - 4.2. Conservation of active mass
    - 4.2.1. General storage rules
    - 4.2.2. Special rules for the disposal of affected assets and productive units: the bankruptcy pre-pack in comparative law
  - 4.5. The credits against the mass
- 5. The passive mass of bankruptcy
  - 5.1. Integration of the passive estate: appeal to creditors, communication, recognition and calculation of credits
  - 5.2. Classification of bankruptcy claims
- 6. The Bankruptcy Administration report
  - 6.1. The inventory of the active mass
  - 6.2. The list of creditors
  - 6.3. Challenging the inventory and the list of creditors
- 7. Bankruptcy solutions
  - 7.1. The bankruptcy agreement: presentation and acceptance of the proposed agreement, approval and execution of the agreement
  - 7.2. Bankruptcy liquidation: effects, liquidation operations and payment to creditors
- 8. The bankruptcy rating
  - 8.1. Contest Rating: Fortuitous or Guilty
  - 8.2. The rating section
  - 8.3. The qualification sentence
- 9. The conclusion of the bankruptcy
  - 9.1. Reasons for the conclusion of the contest
  - 9.2. Effects of the conclusion of the contest
  - 9.3. The second chance of the insolvent natural person
    - 9.3.1. Fresh Start Models in Comparative Law
    - 9.3.2. The exemption of dissatisfied liabilities: objective and subjective areas, modalities and effects
  - 9.4. The reopening of the contest
- 10. Pre-bankruptcy law and special procedure for microenterprises
  - 10.1. Pre-bankruptcy law: types of agreements, communication of negotiations, restructuring plans
  - 10.2. Special procedure for microenterprises: classes, specialties and electronic processing platform

## EDUCATION ACTIVITIES

Masterclasses are combined with training activities in which students are able to apply the contents studied to real circumstances and situations.

### A.- FACE-TO-FACE ACTIVITIES:

- 1.- Master classes consisting of the theoretical-practical presentation of the different aspects of the bankruptcy procedure. In these sessions, students will be frequently questioned to promote active monitoring of the subject and the assimilation of the contents.
- 2.- Training activities that can be individual or in groups (such as APB, role-play, case studies, tests, research papers, debates, etc.) through which reflection and legal argument will be stimulated with the objective of warning of the various interests involved in insolvency situations.
- 3.- Objective tests for the evaluation of learning.
- 4.- Individual or group tutoring aimed at answering questions related to the theoretical contents or to the training

activities carried out.

**B.- NON-FACE-TO-FACE ACTIVITIES:**

- 1.- Study of the theoretical-practical contents of the subject.
- 2.- Tasks related to training activities that can be individual or group (such as APB, role-play, case studies, tests, research papers, debates, etc.), for presentation and discussion in class.

## **DISTRIBUTION OF WORK TIME**

TEACHER-LED TRAINING ACTIVITIES	INDIVIDUAL WORK
30 Horas	45 Horas

## **SKILLS**

### **Basic Skills**

Students must have demonstrated knowledge and understanding in an area of study that is founded on general secondary education. Moreover, the area of study is typically at a level that includes certain aspects implying knowledge at the forefront of its field of study, albeit supported by advanced textbooks

Students must be able to apply their knowledge to their work or vocation in a professional manner and possess skills that can typically be demonstrated by coming up with and sustaining arguments and solving problems within their field of study.

Students must have the ability to gather and interpret relevant data (usually within their field of study) in order to make judgments that include reflections on pertinent social, scientific or ethical issues

Students must be able to convey information, ideas, problems and solutions to both an expert and non-expert audience

Students must have developed the learning skills needed to undertake further study with a high degree of independence

To be familiar with the substantive content of legal disciplines and all supplementary fields.

To apply theoretical knowledge in the solving of problems.

To acquire an ability for analysis, synthesis, assessment and critical reasoning.

To develop the areas needed to promote teamwork, adapting to new situations, being tolerant, and developing ethical behavior and social commitment.

### **General Skills**

To be familiar with the substantive content of legal disciplines and all supplementary fields.

To apply theoretical knowledge in the solving of problems.

To acquire an ability for analysis, synthesis, assessment and critical reasoning.

To develop the areas needed to promote teamwork, adapting to new situations, being tolerant, and developing ethical behavior and social commitment.

### **Specific skills**

Know the concepts, institutions and legal relationships and their basis.

To achieve the perception of the unitary nature of the legal system and of the necessary interdisciplinary vision of legal problems.

Develop criteria for problem solving and decision-making.

Manage the legal sources (legal, jurisprudential and doctrinal) applicable to the case study.

Apply legal argument techniques, offering your point of view in a reasoned, substantiated and tolerant way.

## **LEARNING RESULTS**

Know the objectives, foundations and principles that inform bankruptcy law.

Know the details of the bankruptcy procedure and its framework in the legal system.

Being able to discern in an insolvency situation which legal assets are threatened and which require priority protection.

Be able to identify the legal rules applicable to defend legal assets threatened in an insolvency situation, in accordance with case law and doctrine.

Being able to discern which of the possible solutions to an insolvency situation is the most appropriate to protect legal assets that are threatened.

## **LEARNING APPRAISAL SYSTEM**

A. ORDINARY CALL

A.1. IN-PERSON EVALUATION SYSTEM

1.- 60% Final Exam

2.- 40% Evaluation of continuous learning:

2.1.- 35% Carrying out activities that can be individual or in groups (such as case studies, tests, research papers, debates, etc.)

2.2.- 5% Participation in the subject through forums and class debates.

#### A.2. EVALUATION SYSTEM FOR STUDENTS WITH ACADEMIC EXEMPTION OR IN SECOND OR SUCCESSIVE CALLS:

Those students to whom the management of the Degree grants academic exemption in accordance with the University's regulations, as well as those students in second or successive calls who request it, will be evaluated according to the following system:

1.- 70% Final Exam

2.- 30% Carrying out activities that can be individual or in groups (such as case studies, tests, research papers, debates, etc.)

#### B. EXTRAORDINARY CALL:

1.- 70% Final Exam

2.- 30% Carrying out activities proposed by the teacher (such as case studies, tests, research papers, debates, etc.)

#### C. MINIMUM REQUIREMENTS TO PASS THE COURSE:

For the application of the percentages indicated in sections A and B above, it will be necessary for the final exam to be higher than 5 on the scale of 1 to 10.

#### D. HONORARY ENROLLMENT:

Honorary enrollment will be awarded to those students who, due to their academic performance and moral attributes, have excelled in a notable way.

#### E. VISITING STUDENTS OR STUDENTS FROM INTERNATIONAL PROGRAMS:

Visiting students or students from international programs should contact the teacher as soon as possible to establish the method for monitoring and evaluating the subject.

\* All tests susceptible to evaluation will be subject to the provisions of the University Evaluation Regulations.

\*\* Plagiarism and the use of illegitimate means in evaluation tests will be sanctioned in accordance with those established in the Evaluation Regulations and in the University's Coexistence Regulations.

## ETHICAL AND RESPONSIBLE USE OF ARTIFICIAL INTELLIGENCE

1.- The use of any Artificial Intelligence (AI) system or service shall be determined by the lecturer, and may only be used in the manner and under the conditions indicated by them. In all cases, its use must comply with the following principles:

a) The use of AI systems or services must be accompanied by critical reflection on the part of the student regarding their impact and/or limitations in the development of the assigned task or project.

b) The selection of AI systems or services must be justified, explaining their advantages over other tools or methods of obtaining information. The chosen model and the version of AI used must be described in as much detail as possible.

c) The student must appropriately cite the use of AI systems or services, specifying the parts of the work where they were used and describing the creative process followed. The use of citation formats and usage examples may be consulted on the Library website([https://www.ufv.es/gestion-de-la-informacion\\_biblioteca/](https://www.ufv.es/gestion-de-la-informacion_biblioteca/)).

d) The results obtained through AI systems or services must always be verified. As the author, the student is responsible for their work and for the legitimacy of the sources used.

2.- In all cases, the use of AI systems or services must always respect the principles of responsible and ethical use upheld by the university, as outlined in the [Guide for the Responsible Use of Artificial Intelligence in Studies at UFV](#). Additionally, the lecturer may request other types of individual commitments from the student when deemed necessary.

3.- Without prejudice to the above, in cases of doubt regarding the ethical and responsible use of any AI system or service, the lecturer may require an oral presentation of any assignment or partial submission. This oral evaluation shall take precedence over any other form of assessment outlined in the Teaching Guide. In this oral defense, the student must demonstrate knowledge of the subject, justify their decisions, and explain the development of their work.

## BIBLIOGRAPHY AND OTHER RESOURCES

### Basic

Pedro Rebollo Diaz. Introduction to bankruptcy law/Barcelona: Bosch Editor, 2023.

### Additional

Juana Pulgar Ezquerra Bankruptcy Law Manual 4th

(Juana Pulgar Ezquerra Bankruptcy Law Manual 4th , Madrid: The Law, 2022||Manuel Broseta Pont; edition by Fernando Martínez Sanz. Commercial Law Manual. Volume II, Commercial Contracts, Securities Law, Bankruptcy Law/29th ed. Madrid:Tecnos, 2022. )

Juana Pulgar Ezquerra (Dir.) Comment on the 3rd Bankruptcy Law

(Juana Pulgar Ezquerra (Dir.) Comment on the 3rd Bankruptcy Law , Madrid: The Law, 2023)