

2018 BAR EXAMINATIONS

MERCANTILE LAW

I. LETTERS OF CREDIT

- A. Definition and Nature of Letter of Credit
- B. Parties to a Letter of Credit
 - 1. Rights and Obligations of Parties
- C. Basic Principles of Letter of Credit
 - 1. Doctrine of Independence
 - 2. Fraud Exception Principle
 - 3. Doctrine of Strict Compliance

II. TRUST RECEIPTS LAW

- A. Definition/Concept of a Trust Receipt Transaction
 - 1. Loan/Security Feature
 - 2. Ownership of the Goods, Documents and Instruments under a Trust Receipt
- B. Rights of the Entruster
 - 1. Validity of the Security Interest as Against the Creditors of the Entrustee/Innocent Purchasers for Value
- C. Obligations and Liabilities of the Entrustee
 - 1. Payment/Delivery of Proceeds of Sale or Disposition of Goods, Documents or Instruments
 - 2. Return of Goods, Documents or Instruments in Case of Sale
 - 3. Liability for Loss of Goods, Documents or Instruments
 - 4. Penal Sanction if Offender is a Corporation
- D. Remedies Available
- E. Warehouseman's Lien

III. NEGOTIABLE INSTRUMENTS LAW

- A. Forms and Interpretation
 - 1. Requisites of Negotiability
 - 2. Kinds of Negotiable Instruments

- B. Completion and Delivery
 - 1. Insertion of Date
 - 2. Completion of Blanks
 - 3. Incomplete and Undelivered Instruments
 - 4. Complete but Undelivered Instruments
- C. Signature
 - 1. Signing in Trade Name
 - 2. Signature of Agent
 - 3. Indorsement by Minor or Corporation
 - 4. Forgery
- D. Consideration
- E. Accommodation Party
- F. Negotiation
 - 1. Distinguished from Assignment
 - 2. Modes of Negotiation
 - 3. Kinds of Indorsements
- G. Rights of the Holder
 - 1. Holder in Due Course
 - 2. Defenses Against the Holder
- H. Liabilities of Parties
 - 1. Maker
 - 2. Drawer
 - 3. Acceptor
 - 4. Indorser
 - 5. Warranties
- I. Presentment for Payment
 - 1. Necessity of Presentment for Payment
 - 2. Parties to Whom Presentment for Payment should be Made
 - 3. Dispensation with Presentment for Payment
 - 4. Dishonor by Non-Payment
- J. Notice of Dishonor
 - 1. Parties to be Notified
 - 2. Parties who may Give Notice and Dishonor
 - 3. Effect of Notice
 - 4. Form of Notice

5. Waiver
6. Dispensation with Notice
7. Effect of Failure to Give Notice
- K. Discharge of Negotiable Instrument
 1. Discharge of Negotiable Instrument
 2. Discharge of Parties Secondarily Liable
 3. Right of Party who Discharged Instrument
 4. Renunciation by Holder
- L. Material Alteration
 1. Concept
 2. Effect of Material Alteration
- M. Acceptance
 1. Definition
 2. Manner
 3. Time for Acceptance
 4. Rules Governing Acceptance
- N. Presentment for Acceptance
 1. Time/Place/Manner of Presentment
 2. Effect of Failure to Make Presentment
 3. Dishonor by Non-Acceptance
- O. Promissory Notes
- P. Checks
 1. Definition
 2. Kinds
 3. Presentment for Payment
 - a. Time
 - b. Effect of Delay

IV. INSURANCE CODE

- A. Concept of Insurance
- B. Elements of an Insurance Contract
- C. Characteristics/Nature of Insurance Contracts
- D. Classes
 1. Marine
 2. Fire
 3. Casualty

4. Suretyship
5. Life
6. Compulsory Motor Vehicle Liability Insurance
- E. Insurable Interest
 1. In Life/Health
 2. In Property
 3. Double Insurance and Over Insurance
 4. Multiple or Several Interests on Same Property
- F. Perfection of the Contract of Insurance
 1. Offer and Acceptance/Consensual
 - a. Delay in Acceptance
 - b. Delay in issuance of Policy
 2. Premium Payment
 3. Non-Default Options in Life Insurance
 4. Reinstatement of a Lapsed Policy of Life Insurance
 5. Refund of Premiums
- G. Rescission of Insurance Contracts
 1. Concealment
 2. Misrepresentation/Omissions
 3. Breach of Warranties
- H. Claims Settlement and Subrogation
 1. Notice and Proof of Loss
 2. Guidelines on Claims Settlement
 - a. Unfair Claims Settlement; Sanctions
 - b. Prescription of Actions
 - c. Subrogation

V. TRANSPORTATION LAWS

- A. Common Carriers
 1. Diligence Required of Common Carriers
 2. Liabilities of Common Carriers
- B. Vigilance over Goods
 1. Exempting Causes
 - a. Requirement of Absence of Negligence
 - b. Absence of Delay

- c. Due Diligence to Prevent or Lessen the Loss
 - 2. Contributory Negligence
 - 3. Duration of Liability
 - a. Delivery of Goods to Common Carrier
 - b. Actual or Constructive Delivery
 - c. Temporary Unloading or Storage
 - 4. Stipulations Limiting Liability
 - a. Void Stipulations
 - b. Limitation of Liability to Fixed Amount
 - c. Limitation of Liability in Absence of Declaration of Greater Value
 - 5. Liability for Baggage of Passengers
 - a. Checked-In Baggage
 - b. Baggage in Possession of Passengers
- C. Safety of Passengers
 - 1. Void Stipulations
 - 2. Duration of Liability
 - a. Waiting for Carrier or Boarding of Carrier
 - b. Arrival at Destination
 - 3. Liability for Acts of Others
 - a. Employees
 - b. Other Passengers and Strangers
 - 4. Extent of Liability for Damages
- D. Bill of Lading
 - 1. Three-Fold Character
 - 2. Delivery of Goods
 - a. Period of Delivery
 - b. Delivery Without Surrender of Bill of Lading
 - c. Refusal of Consignee to Take Delivery
 - 3. Period for Filing Claims
 - 4. Period for Filing Actions
- E. Maritime Commerce
 - 1. Charter Parties
 - a. Bareboat/Demise Charter
 - b. Time Charter
 - c. Voyage/Trip Charter

2. Liability of Ship Owners and Shipping Agents
 - a. Liability for Acts of Captain
 - b. Limited Liability Rule
 - c. Exceptions to the Limited Liability Rule
3. Accidents and Damages in Maritime Commerce
 - a. General and Particular Averages
 - b. Collisions
4. Carriage of Goods by Sea Act
 - a. Application
 - b. Notice of Loss or Damage
 - c. Period of Prescription
 - d. Limitation of Liability
- F. The Warsaw Convention
 1. Applicability
 2. Limitation of Liability
 - a. Liability to Passengers
 - b. Liability for Checked Baggage
 - c. Liability for Handcarried Baggage
 3. Willful Misconduct

VI. THE CORPORATION CODE

- A. Corporation
 1. Definition
 2. Attributes of a Corporation
- B. Classes of Corporations
- C. Nationality of Corporations
 1. Place of Incorporation Test
 2. Control Test
 3. Grandfather Rule
- D. Corporate Juridical Personality
 1. Doctrine of Separate Juridical Personality
 - a. Liability for Torts and Crimes
 - b. Recovery of Moral Damages
 2. Doctrine of Piercing the Corporate Veil
 - a. Grounds for Application of Doctrine
 - b. Test in Determining Applicability

- E. Incorporation and Organization
 - 1. Number and Qualifications of Incorporators
 - 2. Corporate Name; Limitations on Use of Corporate Name
 - 3. Corporate Term
 - 4. Minimum Capital Stock and Subscription Requirements
 - 5. Articles of Incorporation
 - a. Nature and Function of Articles
 - b. Contents
 - c. Amendment
 - d. Non-Amendable Items
 - 6. Registration and Issuance of Certificate of Incorporation
 - 7. Adoption of By-Laws
 - a. Nature and Functions of By-Laws
 - b. Requisites of Valid By-Laws
 - c. Binding Effect
 - d. Amendment or Revision
- F. Corporate Powers
 - 1. General Powers; Theory of General Capacity
 - 2. Specific Powers; Theory of Specific Capacity
 - a. Power to Extend or Shorten Corporate Term
 - b. Power to Increase or Decrease Capital Stock or Incur, Create, Increase Bonded Indebtedness
 - c. Power to Deny Pre-Emptive Rights
 - d. Power to Sell or Dispose of Corporate Assets
 - e. Power to Acquire Own Shares
 - f. Power to Invest Corporate Funds in Another Corporation or Business
 - g. Power to Declare Dividends
 - h. Power to Enter Into Management Contracts
 - i. *Ultra Vires* Acts
 - i. Applicability of *Ultra Vires* Doctrine
 - ii. Consequences of *Ultra Vires* Acts
 - 3. How Exercised
 - a. By the Shareholders

- b. By the Board of Directors
 - c. By the Officers
 - 4. Trust Fund Doctrine
- G. Board of Directors and Trustees
 - 1. Doctrine of Centralized Management
 - 2. Business Judgment Rule
 - 3. Tenure, Qualifications, and Disqualifications of Directors or Trustees
 - 4. Elections
 - a. Cumulative Voting/Straight Voting
 - b. Quorum
 - 5. Removal
 - 6. Filling of Vacancies
 - 7. Compensation
 - 8. Rules on Fiduciaries' Duties and Liabilities
 - 9. Responsibility for Crimes
 - 10. Inside Information
 - 11. Contracts
 - a. By Self-Dealing Directors with the Corporation
 - b. Between Corporations with Interlocking Directors
 - 12. Executive Committee
 - 13. Meetings
 - a. Regular or Special
 - i. When and Where
 - ii. Notice
 - b. Who Presides
 - c. Quorum
 - d. Rule on Abstention
- H. Stockholders and Members
 - 1. Rights of Stockholders and Members
 - a. Doctrine of Equality of Shares
 - 2. Participation in Management
 - a. Proxy
 - b. Voting Trust
 - c. Cases When Stockholders' Action is Required
 - i. By a Majority Vote

- ii. By a Two-Thirds Vote
 - iii. By Cumulative Voting
- 3. Proprietary Rights
 - a. Right to Dividends
 - b. Right of Appraisal
 - c. Right to Inspect
 - d. Pre-Emptive Right
 - e. Right to Vote
 - f. Right to Dividends
 - g. Right of First Refusal
- 4. Remedial Rights
 - a. Individual Suit
 - b. Representative Suit
 - c. Derivative Suit
- 5. Obligations of a Stockholder
- 6. Meetings
 - a. Regular or Special
 - i. When and Where
 - ii. Notice
 - b. Who Calls the Meetings
 - c. Quorum
 - d. Minutes of the Meetings
- I. Capital Structure
 - 1. Subscription Agreements
 - 2. Consideration for Shares of Stock
 - 3. Shares of Stock
 - a. Nature of Shares of Stock
 - b. Consideration for Shares of Stock
 - c. Watered Stock
 - i. Definition
 - ii. Liability of Directors for Watered Stocks
 - iii. Trust Fund Doctrine for Liability for Watered Stocks
 - d. *Situs* of the Shares of Stock
 - e. Classes of Shares of Stock
 - 4. Payment of Balance of Subscription

- a. Call by Board of Directors
 - b. Notice Requirement
 - c. Sale of Delinquent Shares
 - i. Effect of Delinquency
 - ii. Call by Resolution of the Board of Directors
 - iii. Notice of Sale
 - iv. Auction Sale and the Highest Bidder
5. Certificate of Stock
- a. Nature of the Certificate
 - b. Uncertificated Shares
 - c. Negotiability
 - i. Requirements for Valid Transfer of Stocks
 - d. Issuance
 - i. Full Payment
 - ii. Payment Pro-Rata
 - e. Lost or Destroyed Certificates
6. Stock and Transfer Book
- a. Contents
 - b. Who May Make Valid Entries
7. Disposition and Encumbrance of Shares
- a. Sale of shares
 - b. Allowable Restrictions on the Sale of Shares
 - c. Requisites of a Valid Transfer
 - d. Involuntary Dealings with Shares
- J. Dissolution and Liquidation
1. Modes of Dissolution
- a. Voluntary
 - i. Where No Creditors Are Affected
 - ii. Where Creditors Are Affected
 - iii. Shortening of Corporate Term
 - b. Involuntary
 - i. Expiration of Corporate Term
 - ii. Non-use of Corporate Charter or Continuous Inoperation of a Corporation
 - iii. Legislative Dissolution
 - iv. Dissolution by the SEC on Grounds under

Existing Laws

2. Methods of Liquidation
 - a. By the Corporation Itself
 - b. By Conveyance to a Trustee within a Three-Year Period
 - c. By Management Committee or Rehabilitation Receiver
 - d. By Liquidation after Three Years
- K. Other Corporations
 1. Non-Stock Corporations
 - a. Definition
 - b. Purposes
 - c. Treatment of Profits
 - d. Distribution of Assets upon Dissolution
 2. Foreign Corporations
 - a. Bases of Authority over Foreign Corporations
 - i. Consent
 - ii. Doctrine of "Doing Business" (related to definition under the R.A. No. 7042 or the Foreign Investments Act)
 - b. Necessity of a License to Do Business
 - i. Requisites for Issuance of a License
 - ii. Resident Agent
 - c. Personality to Sue
 - d. Suability of Foreign Corporations
 - e. Instances When Unlicensed Foreign Corporations May Be Allowed to Sue
 - f. Grounds for Revocation of License
- L. Mergers and Consolidations
 1. Definition and Concept
 2. Plan of Merger or Consolidation
 3. Articles of Merger or Consolidation
 4. Procedure
 5. Effectivity
 6. Effects and Limitations

VII. SECURITIES REGULATION CODE (R.A. NO. 8799)

- A. State Policy, Purpose
- B. Definition of Securities
- C. Kinds of Securities
 - 1. Exempt Securities
 - 2. Exempt Transactions
 - 3. Non Exempt
- D. Procedure for Registration of Securities
- E. Prohibitions on Fraud, Manipulation and Insider Trading
 - 1. Manipulation of Security Prices
 - 2. Fraudulent Transactions
 - 3. Insider Trading
- F. Protection of Investors
 - 1. Tender Offer Rule
 - 2. Rules on Proxy Solicitation
 - 3. Disclosure Rule
- G. Civil Liability

VIII. BANKING LAWS

- A. The New Central Bank Act (R.A. No. 7653)
 - 1. State Policies
 - 2. Responsibility and Primary Objective of the BSP
 - 3. Monetary Board; Powers and Functions
 - 4. The BSP and Banks in Distress
 - a. Conservatorship
 - b. Closure
 - c. Receivership
 - d. Liquidation
 - 5. Legal Tender Power
 - 6. Foreign Exchange Operations
- B. Law on Secrecy of Bank Deposits (R.A. No. 1405, as amended)
 - 1. Purpose
 - 2. Prohibited Acts
 - 3. Deposits Covered
 - 4. Exceptions

5. Garnishment of Deposits, including Foreign Deposits
- C. General Banking Law of 2000 (R.A. No. 8791)
 1. Definition and Classification of Banks
 2. Distinction of Banks from Quasi-Banks and Trust Entities
 3. Bank Powers and Liabilities
 - a. Corporate Powers
 - b. Banking and Incidental Powers
 4. Diligence Required of Banks
 5. Nature of Bank Funds and Bank Deposits
 6. Stipulation on Interests
 7. Grant of Loans and Security Requirements
 - a. Ratio of Net Worth to Total Risk Assets
 - b. Single Borrower's Limit
 - c. Restrictions on Bank Exposure to DOSRI (Directors, Officers, Stockholders and their Related Interests)

IX. INTELLECTUAL PROPERTY CODE (EXCLUDE IMPLEMENTING RULES & REGULATIONS)

- A. Intellectual Property Rights in General
 1. Intellectual Property Rights
 2. Differences between Copyrights, Trademarks and Patent
- B. Patents
 1. Patentable Inventions
 2. Non-Patentable Inventions
 3. Ownership of a Patent
 - a. Right to a Patent
 - b. First-to-File Rule
 - c. Inventions Created Pursuant to a Commission
 - d. Right of Priority
 4. Grounds for Cancellation of a Patent
 5. Remedy of the True and Actual Inventor
 6. Rights Conferred by a Patent
 7. Limitations of Patent Rights
 - a. Prior User

- b. Use by the Government
 - 8. Patent Infringement
 - a. Tests in Patent Infringement
 - i. Literal Infringement
 - ii. Doctrine of Equivalents
 - b. Defenses in Actions for Infringement
 - 9. Licensing
 - a. Voluntary
 - b. Compulsory
 - 10. Assignment and Transmission of Rights
- C. Trademarks
 - 1. Definition of Marks, Collective Marks, Trade Names
 - 2. Acquisition of Ownership of Mark
 - 3. Acquisition of Ownership of Trade Name
 - 4. Non-Registrable Marks
 - 5. Tests to Determine Confusing Similarity between Marks
 - a. Dominancy Test
 - b. Holistic Test
 - 6. Well-Known Marks
 - 7. Rights Conferred by Registration
 - 8. Infringement and Remedies
 - a. Trademark Infringement
 - b. Damages
 - c. Requirement of Notice
 - 9. Unfair Competition
- D. Copyrights
 - 1. Basic Principles, Sections 172.2, 175 and 181
 - 2. Copyrightable Works
 - a. Original Works
 - b. Derivative Works
 - 3. Non-Copyrightable Works
 - 4. Rights of Copyright Owner
 - 5. Rules on Ownership of Copyright
 - 6. Limitations on Copyright
 - a. Doctrine of Fair Use

7. Copyright Infringement

X. SPECIAL LAWS

- A. Anti-Money Laundering Act (R.A. No. 9160, as amended by R.A. No. 9194)
 - 1. Policy of the Law
 - 2. Covered Institutions
 - 3. Obligations of Covered Institutions
 - 4. Covered Transactions
 - 5. Suspicious Transactions
 - 6. Money Laundering; How Committed
 - 7. Unlawful Activities or Predicate Crimes
 - 8. Anti-Money Laundering Council
 - 9. Functions
 - 10. Freezing of Monetary Instrument or Property
 - 11. Authority to Inquire Into Bank Deposits
- B. Foreign Investments Act (R.A. No. 7042)
 - 1. Policy of the Law
 - 2. Definition of Terms
 - a. Foreign Investment
 - b. "Doing Business" in the Philippines
 - c. Export Enterprise
 - d. Domestic Market Enterprise
- C. Electronic Commerce Act of 2000 (R.A. No. 8792) and A.M. No. 01-7-01-SC or the Rules on Electronic Evidence
- D. Philippine Competition Act (R.A. No. 10667)
- E. Financial Rehabilitation and Insolvency Act of 2010 (R.A. No. 10142)
 - 1. Types of Rehabilitation Proceedings
 - a. Court Supervised
 - i. Voluntary Proceedings
 - ii. Involuntary Proceedings
 - b. Pre-Negotiated
 - c. Out of Court or Informal
 - 2. Commencement Order
 - 3. Rehabilitation Receiver

4. Management Committee
5. Rehabilitation Plan
6. Cram Down Effect
7. Stay or Suspension Order
8. Liquidation
 - a. Kinds of Debtors
 - i. Juridical Debtors
 - 1) Voluntary Liquidation
 - 2) Involuntary Liquidation
 - ii. Individual Debtors
 - 1) Suspension of Payments
 - 2) Voluntary Liquidation
 - 3) Involuntary Liquidation
 - b. Procedure
 - i. Conversion of Rehabilitation Proceedings to Liquidation Proceedings
 - ii. Liquidation Order
 - iii. Effects of the Liquidation Order
 - iv. Rights Of Secured Creditors
 - v. Powers, Duties, and Responsibilities of the Liquidator
 - vi. Determination of Claims
 - vii. Liquidation Plan

IMPORTANT NOTES:

- The listing of covered topics is not intended and should not be used by law schools as a course outline. This listing has been drawn up for the limited purpose of ensuring that the Bar candidates are guided on the coverage of the 2018 Bar Examinations.
- All laws, rules, issuances, and jurisprudence pertinent to every subject and its listed topics as of June 30, 2017 are examinable materials within the coverage of the 2018 Bar Examinations.
- Principles of law are not covered by the cut-off period stated herein.