

## Subject Matter Outlines

The following outlines indicate the examination's potential scope of coverage. The outlines are not intended to list each aspect of each topic mentioned. Some questions may require analysis of more than one subject area. The particular areas covered vary from exam to exam.

### **Business Associations**

#### **Agency and Partnership**

- I. Agency relationships
  - A. Creation
  - B. Types
  - C. Termination
- II. Power of agent to bind principal
  - A. Authority
  - B. Apparent authority
  - C. Inherent agency power
- III. Vicarious liability of principal for acts of agent
- IV. Fiduciary duties between principal and agent
  - A. Duty of care
  - B. Duty of loyalty
  - C. Duty of obedience
- V. Creation of partnerships
  - A. General partnerships
  - B. Limited partnerships
  - C. Limited liability partnerships
- VI. Power and liability of partners
- VII. Rights of partners among themselves
  - A. Profits and losses
  - B. Management and control
  - C. Duty of care
  - D. Duty of loyalty
- VIII. Dissolution
  - A. Distinguished from winding up and termination
  - B. Rightful versus wrongful
  - C. General partnerships, limited partnerships, or limited liability partnerships
- IX. Special rules concerning limited partnerships
  - A. Disclosure requirements
  - B. The control limitation
  - C. Economic rights of limited partners

### **Corporations and Limited Liability Companies**

- I. Formation of organizations
  - A. Articles of incorporation
  - B. Bylaws
  - C. Articles of organization; certificates of formation
  - D. Operating agreements
- II. Pre-organization transactions
  - A. Promoters: contracts and fiduciary duties
  - B. Subscriptions for shares
- III. Piercing the veil
- IV. Financing the organization
  - A. Sources of finance
  - B. Securities issuance and characteristics
  - C. Dividends and distributions
  - D. Redemptions and repurchases
- V. Management and control
  - A. Shareholders
    1. Meetings: annual, notice, and quorum
    2. Voting: eligibility, cumulative voting, proxy voting, class voting, voting trusts, and shareholder voting agreements
  - B. Directors
    1. Meetings: quorum and notice
    2. Action by written consent
    3. Action by committee
    4. Director's objections to actions
  - C. Officers
    1. Authority
    2. Officer's liability on corporate obligations
  - D. Members and managers
    1. Authority
    2. Liability
    3. Powers

- VI. Fiduciary duties
  - A. Directors, officers, and shareholders
  - B. Managers and members
- VII. Close corporations and special control devices
  - A. Share transfer restrictions
  - B. Special agreements allocating authority
  - C. Resolutions of disputes and deadlocks
  - D. Option or buy/sell agreements
- VIII. Organizational structure including relationships between parents and subsidiaries
  - A. Amendments
    - 1. Articles of incorporation and bylaws
    - 2. Articles of organization, certificates of formation, and operating agreements
  - B. Mergers and consolidations
  - C. Sales of substantially all assets
  - D. Recapitalizations
  - E. Exchanges of securities
  - F. Dissolution of organization
- IX. Shareholder and member litigation: direct, derivative, and class litigation

### **Conflict of Laws**

NOTE: Conflict of Laws issues are embedded in the other MEE topic areas. They do not appear as stand-alone questions.

- I. Domicile
  - A. Meaning and legal consequences
  - B. State's law by which determined
- II. Jurisdiction of courts
  - A. Types of jurisdiction
    - 1. In personam
    - 2. In rem and quasi in rem
  - B. Bases of jurisdiction
  - C. Notice and opportunity to be heard
  - D. Limits on exercise of jurisdiction
    - 1. Traditional limitations
      - a. Choice of forum by agreement
      - b. Fraud, force, and privilege
      - c. Forum non conveniens
    - 2. Constitutional limitations (due process)

- III. Choice of law
  - A. Basic concepts
    - 1. Legal characterization
    - 2. Renvoi
    - 3. Depeçage
    - 4. Proof of foreign law
  - B. Choice of law theories
    - 1. Traditional "vested rights" approach
    - 2. Contemporary "policy" approaches (including the interest analysis approach and the substantial relationship approach of Restatement (Second) of Conflict of Laws)
  - C. Application in specific areas
    - 1. Torts
    - 2. Contracts
    - 3. Property
    - 4. Corporations
    - 5. Family law
    - 6. Substance vs. procedure
  - D. Defenses against application of foreign law
    - 1. Local public policy
    - 2. Penal laws
    - 3. Revenue laws
  - E. Constitutional limitations
    - 1. Due process
    - 2. Full faith and credit
    - 3. Privileges and immunities
  - F. Federal-state conflicts
    - 1. Federal supremacy
    - 2. *Erie* doctrine
- IV. Recognition and enforcement of other states' judgments and foreign judgments
  - A. Full faith and credit
  - B. Effect: claim and issue preclusion
  - C. Defenses to recognition or enforcement
  - D. Family law judgments

### **Constitutional Law**

NOTE: The terms "Constitution," "constitutional," and "unconstitutional" refer to the federal Constitution unless indicated otherwise.

- I. The nature of judicial review
  - A. Organization and relationship of state and federal courts in a federal system

- B. Jurisdiction
  - 1. Constitutional basis
  - 2. Congressional power to define and limit
  - 3. The Eleventh Amendment and state sovereign immunity
- C. Judicial review in operation
  - 1. The “case or controversy” requirement, including the prohibition on advisory opinions, standing, ripeness, and mootness
  - 2. The “adequate and independent state ground”
  - 3. Political questions and justiciability
- II. The separation of powers
  - A. The powers of Congress
    - 1. Commerce, taxing, and spending powers
    - 2. War, defense, and foreign affairs powers
    - 3. Power to enforce the 13th, 14th, and 15th Amendments
    - 4. Other powers
  - B. The powers of the president
    - 1. As chief executive, including the “take care” clause
    - 2. As commander in chief
    - 3. Treaty and foreign affairs powers
    - 4. Appointment and removal of officials
  - C. Federal interbranch relationships
    - 1. Congressional limits on the executive
    - 2. The presentment requirement and the president’s power to veto or to withhold action
    - 3. Non-delegation doctrine
    - 4. Executive, legislative, and judicial immunities
- III. The relation of nation and states in a federal system
  - A. Intergovernmental immunities
    - 1. Federal immunity from state law
    - 2. State immunity from federal law, including the 10th Amendment
  - B. Federalism-based limits on state authority
    - 1. Negative implications of the commerce clause
    - 2. Supremacy clause and preemption
    - 3. Full faith and credit
    - 4. Authorization of otherwise invalid state action
- IV. Individual rights
  - A. State action
  - B. Due process
    - 1. Substantive due process
      - a. Fundamental rights
      - b. Other rights and interests
    - 2. Procedural due process, including personal jurisdiction
  - C. Equal protection
    - 1. Fundamental rights
    - 2. Classifications subject to heightened scrutiny
    - 3. Rational basis review
  - D. Takings
  - E. Other protections, including the privileges and immunities clauses, the contracts clause, unconstitutional conditions, bills of attainder, and ex post facto laws
  - F. First Amendment freedoms
    - 1. Freedom of religion and separation of church and state
      - a. Free exercise
      - b. Establishment
    - 2. Freedom of expression
      - a. Content-based regulation of protected expression
      - b. Content-neutral regulation of protected expression
      - c. Regulation of unprotected expression
      - d. Regulation of commercial speech
      - e. Regulation of, or impositions upon, public school students, public employment, licenses, or benefits based upon exercise of expressive or associational rights
      - f. Regulation of expressive conduct
      - g. Prior restraint, vagueness, and overbreadth
    - 3. Freedom of the press
    - 4. Freedom of association

## Contracts

NOTE: Examinees are to assume that Article 2 and Revised Article 1 of the Uniform Commercial Code have been adopted and are applicable when appropriate.

- I. Formation of contracts
  - A. Mutual assent
    1. Offer and acceptance
    2. Indefiniteness or absence of terms
    3. Implied-in-fact contract
    4. "Pre-contract" obligations based on reliance
  - B. Consideration
    1. Bargain and exchange and substitutes for bargain: "moral obligation," reliance, and statutory substitutes
    2. Modification of contracts: preexisting duties
    3. Compromise and settlement of claims
- II. Defenses to enforceability
  - A. Incapacity to contract
  - B. Duress
  - C. Undue influence
  - D. Mistake, misunderstanding
  - E. Fraud, misrepresentation, and nondisclosure
  - F. Illegality, unconscionability, and public policy
  - G. Statute of frauds
- III. Parol evidence and interpretation
- IV. Performance, breach, and discharge
  - A. Conditions
    1. Express
    2. Constructive
    3. Obligations of good faith and fair dealing in performance and enforcement of contracts
    4. Suspension or excuse of conditions by waiver, election, or estoppel
    5. Prospective inability to perform: effect on other party
  - B. Impracticability and frustration of purpose
  - C. Discharge of contractual duties
  - D. Express and implied warranties in sale-of-goods contracts

- E. Substantial and partial breach and anticipatory repudiation
- V. Remedies
  - A. Measure of damages for breach; protecting the expectation interest
  - B. Consequential damages: causation, certainty, and foreseeability
  - C. Liquidated damages and penalties
  - D. Avoidable consequences and mitigation of damages
  - E. Rescission and reformation
  - F. Specific performance; injunction against breach; declaratory judgment
  - G. Restitutionary and reliance recoveries
  - H. Remedial rights of breaching parties
- VI. Third-party rights
  - A. Third-party beneficiaries
    1. Intended beneficiaries
    2. Incidental beneficiaries
    3. Impairment or extinguishment of third-party rights
    4. Enforcement by the promisee
  - B. Assignment of rights and delegation of duties

## Criminal Law and Procedure

- I. Homicide
  - A. Intended killings
    1. Premeditation, deliberation
    2. Provocation
  - B. Unintended killings
    1. Intent to injure
    2. Reckless and negligent killings
    3. Felony murder
    4. Misdemeanor manslaughter
- II. Other crimes
  - A. Theft
    1. Larceny
    2. Embezzlement
    3. False pretenses
  - B. Receiving stolen goods
  - C. Robbery
  - D. Burglary
  - E. Assault and battery

- F. Rape; statutory rape
- G. Kidnapping
- H. Arson
- I. Possession offenses
- III. Inchoate crimes; parties
  - A. Inchoate offenses
    - 1. Attempts
    - 2. Conspiracy
    - 3. Solicitation
  - B. Parties to crime
- IV. General principles
  - A. Acts and omissions
  - B. State of mind
    - 1. Required mental state
    - 2. Strict liability
    - 3. Mistake of fact or law
  - C. Responsibility
    - 1. Mental disorder
    - 2. Intoxication
  - D. Causation
  - E. Justification and excuse
  - F. Jurisdiction
- V. Constitutional protection of accused persons
  - A. Arrest, search and seizure
  - B. Confessions and privilege against self-incrimination
  - C. Lineups and other forms of identification
  - D. Right to counsel
  - E. Fair trial and guilty pleas
  - F. Double jeopardy
  - G. Cruel and unusual punishment
  - H. Burdens of proof and persuasion
- 6. Judicial notice
- 7. Roles of judge and jury
- 8. Limited admissibility
- B. Presumptions
- C. Mode and order
  - 1. Control by court
  - 2. Scope of examination
  - 3. Form of questions
  - 4. Exclusion of witnesses
- D. Impeachment, contradiction, and rehabilitation
  - 1. Inconsistent statements and conduct
  - 2. Bias and interest
  - 3. Conviction of crime
  - 4. Specific instances of conduct
  - 5. Character for truthfulness
  - 6. Ability to observe, remember, or relate accurately
  - 7. Impeachment of hearsay declarants
  - 8. Rehabilitation of impeached witnesses
  - 9. Contradiction
- E. Proceedings to which evidence rules apply
- II. Relevancy and reasons for excluding relevant evidence
  - A. Probative value
    - 1. Relevancy
    - 2. Exclusion for unfair prejudice, confusion, or waste of time
  - B. Authentication and identification
  - C. Character and related concepts
    - 1. Admissibility of character
    - 2. Methods of proving character
    - 3. Habit and routine practice
    - 4. Other crimes, acts, transactions, and events
    - 5. Prior sexual misconduct of a defendant
  - D. Expert testimony
    - 1. Qualifications of witnesses
    - 2. Bases of testimony
    - 3. Ultimate issue rule
    - 4. Reliability and relevancy
    - 5. Proper subject matter for expert testimony
  - E. Real, demonstrative, and experimental evidence

## Evidence

NOTE: All Evidence questions should be answered according to the Federal Rules of Evidence.

- I. Presentation of evidence
  - A. Introduction of evidence
    - 1. Requirement of personal knowledge
    - 2. Refreshing recollection
    - 3. Objections and offers of proof
    - 4. Lay opinions
    - 5. Competency of witnesses

- III. Privileges and other policy exclusions
  - A. Spousal immunity and marital communications
  - B. Attorney-client and work product
  - C. Physician/psychotherapist-patient
  - D. Other privileges
  - E. Insurance coverage
  - F. Remedial measures
  - G. Compromise, payment of medical expenses, and plea negotiations
  - H. Past sexual conduct of a victim
- IV. Writings, recordings, and photographs
  - A. Requirement of original
  - B. Summaries
  - C. Completeness rule
- V. Hearsay and circumstances of its admissibility
  - A. Definition of hearsay
    - 1. What is hearsay
    - 2. Prior statements by witness
    - 3. Statements attributable to party-opponent
    - 4. Multiple hearsay
  - B. Present sense impressions and excited utterances
  - C. Statements of mental, emotional, or physical condition
  - D. Statements for purposes of medical diagnosis and treatment
  - E. Past recollection recorded
  - F. Business records
  - G. Public records and reports
  - H. Learned treatises
  - I. Former testimony; depositions
  - J. Statements against interest
  - K. Other exceptions to the hearsay rule
  - L. Right to confront witnesses
- E. Common law marriage and other curative or mitigative doctrines
- F. Premarital contracts
- II. Being married
  - A. Rights and responsibilities of spouses
  - B. Family privacy
    - 1. Common law doctrine
    - 2. Constitutional privacy
    - 3. Reproductive choices
    - 4. Evidentiary privileges
  - C. Remedies for tortious interference with the marital relationship
- III. Separation, divorce, dissolution, and annulment
  - A. Grounds and defenses
  - B. Jurisdiction and recognition of decrees
  - C. Preliminary, interlocutory, and final orders
  - D. Division of property
  - E. Maintenance or alimony
  - F. Child support
  - G. Modification of maintenance and child support
  - H. Enforcement of awards
  - I. Mediation and other alternative means of dispute resolution
  - J. Separation agreements
- IV. Child custody
  - A. Standards for decision
  - B. Visitation
  - C. Joint custody
  - D. Enforcement
  - E. Procedural issues
    - 1. Jurisdiction to decide custody
    - 2. Child's preference
    - 3. Counsel for the child
  - F. Modification
  - G. Mediation and other alternative means of dispute resolution
- V. Rights of unmarried cohabitants
  - A. Rights of cohabitants inter se
  - B. Unmarried parents and their children: illegitimacy
    - 1. Constitutional limits on discrimination
      - a. Unfavorable treatment of illegitimate children

## **Family Law**

- I. Getting married
  - A. Controversies arising in anticipation of marriage
  - B. Limitations on who may marry
  - C. Procedural requirements
  - D. State of mind requirements

- b. Unfavorable treatment of unmarried parents
  - 2. Presumption of legitimacy
  - 3. Establishing paternity
  - 4. Legitimation
- VI. Parent, child, and state
  - A. Legal disabilities of childhood
  - B. Duty to support
  - C. Intra-family immunities
  - D. Claims for loss of consortium
  - E. Parent's right to control child's upbringing and limitations on parental autonomy
  - F. Custodial disputes between parents and third parties
- VII. Adoption
  - A. Jurisdiction
  - B. Agency versus independent placements
  - C. Parental consent
- VIII. Alternatives to adoption
  - A. Artificial insemination by donor
  - B. Surrogacy arrangements
  - C. In vitro fertilization, gestational surrogacy, and embryo transplantation

### **Federal Civil Procedure**

NOTE: Examinees are to assume that the 2006 and 2007 amendments to the Federal Rules of Civil Procedure apply.

- I. Jurisdiction and venue
  - A. Subject matter jurisdiction
    - 1. Federal courts
    - 2. State courts
  - B. Jurisdiction over parties
  - C. Jurisdiction over property
  - D. Service of process and notice
  - E. Venue, forum non conveniens, and transfer
- II. Law applied by federal courts
  - A. State law in federal court
  - B. Federal common law
- III. Injunctions and provisional remedies
- IV. Pretrial procedures
  - A. Pleadings and motions
  - B. Abstention doctrines

- C. Joinder of parties and claims (including class actions)
    - D. Discovery (including e-discovery)
    - E. Adjudication without a trial
    - F. Pretrial conference and order
- V. The trial process
  - A. Jury trials
  - B. Nonjury trials
  - C. Jury instructions
  - D. Motions
- VI. Verdicts and judgments
  - A. Jury verdicts
  - B. Judicial findings and conclusions
  - C. Directed verdicts and nonsuits
  - D. Posttrial motions
  - E. Effect; claim and issue preclusion
  - F. Appealability and review

### **Real Property**

- I. Ownership
  - A. Present estates
    - 1. Fees simple
    - 2. Defeasible fees simple
    - 3. Life estates
  - B. Future interests
    - 1. Reversions
    - 2. Remainders, vested and contingent
    - 3. Executory interests
    - 4. Possibilities of reverter, powers of termination
    - 5. Rules affecting these interests
  - C. Cotenancy
    - 1. Types
      - a. Tenancy in common
      - b. Joint tenancy
    - 2. Severance
    - 3. Partition
    - 4. Relations among cotenants
    - 5. Alienability, descendability, devisability
  - D. The law of landlord and tenant
    - 1. Types of holdings: creation and termination
      - a. Terms for years
      - b. Tenancies at will

- c. Holdovers and other tenancies at sufferance
      - d. Periodic tenancies
    - 2. Possession and rent
    - 3. Assignment and subletting
    - 4. Termination (surrender, mitigation of damages, and anticipatory breach)
    - 5. Habitability and suitability
  - E. Special problems
    - 1. Rule Against Perpetuities: common law and as modified
    - 2. Alienability, descendability, and devisability
    - 3. Fair housing/discrimination
- II. Rights in land
  - A. Covenants at law and in equity
    - 1. Nature and type
    - 2. Creation
    - 3. Scope
    - 4. Termination
  - B. Easements, profits, and licenses
    - 1. Nature and type
    - 2. Methods of creation
      - a. Express
      - b. Implied
        - i. Quasi-use
        - ii. Necessity
        - iii. Plat
      - c. Prescription
    - 3. Scope
    - 4. Termination
  - C. Fixtures (including relevant application of Article 9, UCC)
  - D. Zoning (fundamentals other than regulatory taking)
- III. Contracts
  - A. Real estate brokerage
  - B. Creation and construction
    - 1. Statute of frauds and exceptions
    - 2. Essential terms
    - 3. Time for performance
    - 4. Remedies for breach
  - C. Marketability of title
  - D. Equitable conversion (including risk of loss)
  - E. Options and rights of first refusal
  - F. Fitness and suitability
  - G. Merger
- IV. Mortgages/security devices
  - A. Types of security devices
    - 1. Mortgages (including deeds of trust)
      - a. In general
      - b. Purchase-money mortgages
      - c. Future-advance mortgages
    - 2. Land contracts
    - 3. Absolute deeds as security
  - B. Some security relationships
    - 1. Necessity and nature of obligation
    - 2. Theories: title, lien, and intermediate
    - 3. Rights and duties prior to foreclosure
    - 4. Right to redeem and clogging equity of redemption
  - C. Transfers by mortgagor
    - 1. Distinguishing “subject to” and “assuming”
    - 2. Rights and obligations of transferor
    - 3. Application of subrogation and suretyship principles
    - 4. Due-on-sale clauses
  - D. Transfers by mortgagee
  - E. Payment, discharges, and defenses
  - F. Foreclosure
    - 1. Types
    - 2. Rights of omitted parties
    - 3. Deficiency and surplus
    - 4. Redemption after foreclosure
    - 5. Deed in lieu of foreclosure
- V. Titles
  - A. Adverse possession
  - B. Transfer by deed
    - 1. Warranty and nonwarranty deeds (including covenants for title)
    - 2. Necessity for a grantee and other deed requirements
    - 3. Delivery (including escrows)
  - C. Transfer by operation of law and by will
    - 1. In general
    - 2. Ademption
    - 3. Exoneration
    - 4. Lapse
    - 5. Abatement

- D. Title assurance systems
  1. Recording acts (race, notice, and race-notice)
    - a. Indexes
    - b. Chain of title
    - c. Protected parties
    - d. Priorities
    - e. Notice
  2. Title insurance
- E. Special problems
  1. After-acquired title (including estoppel by deed)
  2. Forged instruments and undelivered deeds
  3. Purchase-money mortgages
  4. Judgment and tax liens

## Torts

NOTE: The Torts questions should be answered according to principles of general applicability. Examinees are to assume that there is no applicable statute unless otherwise specified; however, survival actions and claims for wrongful death should be assumed to be available where applicable. Examinees should assume that joint and several liability, with pure comparative negligence, is the relevant rule unless otherwise indicated.

- I. Intentional torts
  - A. Harms to the person, such as assault, battery, false imprisonment, and infliction of mental distress; and harms to property interests, such as trespass to land and chattels, and conversion
  - B. Defenses to claims for physical harms
    1. Consent
    2. Privileges and immunities: protection of self and others; protection of property interests; parental discipline; protection of public interests; necessity; incomplete privilege
- II. Negligence
  - A. The duty question, including failure to act, unforeseeable plaintiffs, and obligations to control the conduct of third parties
- B. The standard of care
  1. The reasonably prudent person: including children, physically and mentally impaired individuals, professional people, and other special classes
  2. Rules of conduct derived from statutes and custom
- C. Problems relating to proof of fault, including *res ipsa loquitur*
- D. Problems relating to causation
  1. But for and substantial causes
  2. Harms traceable to multiple causes
  3. Questions of apportionment of responsibility among multiple tortfeasors, including joint and several liability
- E. Limitations on liability and special rules of liability
  1. Problems relating to “remote” or “unforeseeable” causes, “legal” or “proximate” cause, and “superseding” causes
  2. Claims against owners and occupiers of land
  3. Claims for mental distress not arising from physical harm; other intangible injuries
  4. Claims for pure economic loss
- F. Liability for acts of others
  1. Employees and other agents
  2. Independent contractors and nondelegable duties
- G. Defenses
  1. Contributory fault, including common law contributory negligence and last clear chance, and the various forms of comparative negligence
  2. Assumption of risk
- III. Strict liability: claims arising from abnormally dangerous activities; the rule of *Rylands v. Fletcher* and other common law strict liability claims; defenses
- IV. Products liability: claims against manufacturers and others based on defects in manufacture, design, and warning; and defenses

- V. Other torts
  - A. Claims based on nuisance, and defenses
  - B. Claims based on defamation and invasion of privacy, defenses, and constitutional limitations
  - C. Claims based on misrepresentations, and defenses
  - D. Claims based on intentional interference with business relations, and defenses

## **Trusts and Estates**

### **Decedents' Estates**

- I. Intestate succession
  - A. Share of the surviving spouse
  - B. Share of children and more remote descendants
    - 1. Adopted children
    - 2. Children born out of wedlock
    - 3. Half-bloods
  - C. Share of ancestors and collaterals
  - D. Advancements
  - E. Simultaneous death
- II. Wills
  - A. Execution requirements
    - 1. Governing law
    - 2. Wills complying with law of domicile
    - 3. Foreign wills
    - 4. Holographic wills
    - 5. Interested witnesses
  - B. Integration of wills
  - C. Codicils
  - D. Incorporation by reference
  - E. Facts of independent significance
  - F. Revocation
    - 1. Dependent relative revocation
    - 2. Revocation due to changed circumstances
    - 3. Revocation by physical act
    - 4. Partial revocation
  - G. Revival
  - H. Contractual wills
  - I. Construction problems
    - 1. Lapsed legacies
    - 2. Ademption
- III. Family protection
  - A. Spouse's forced or elective shares
    - 1. Size
    - 2. Assets subject to share
  - B. Share of after-born or pretermitted child
- IV. Living wills and durable health care powers
  - A. Execution requirements
  - B. Revocation
  - C. Individuals eligible to be agent or attorney-in-fact
  - D. Authority of agent or attorney-in-fact
- V. Other torts
  - 3. Accretions
  - 4. Satisfaction
  - 5. Exoneration
  - 6. Slayer statutes
  - 7. Disclaimers
  - 8. Simultaneous death
  - 9. Abatement
  - 10. Classification of legacies and devises
  - 11. Gifts to classes
  - 12. Gifts to children and issue
- J. Will contests
  - 1. Age requirement
  - 2. Mental capacity
  - 3. Undue influence
  - 4. Fraud
  - 5. Mistake
  - 6. No-contest clauses
  - 7. Standing to contest
- K. Nonprobate transfers
  - 1. Inter vivos gifts
  - 2. Joint tenancy
  - 3. Tentative trusts and pay-on-death accounts
  - 4. Other nonprobate transfers
- L. Powers and duties of personal representative

### **Trusts and Future Interests**

- I. Trusts
  - A. Classification
  - B. Creation
    - 1. Requirement of trust res
    - 2. Requirement of beneficiary
    - 3. Requirement of trustee

- C. Types of trusts
  1. Revocable
  2. Irrevocable
  3. Testamentary
  4. Pourover
  5. Charitable
- D. Alienability of trust interests
- E. Protective trusts
  1. Discretionary trusts
  2. Support trusts
  3. Spendthrift trusts
- F. Powers of invasion
- G. Modification
- H. Termination
- I. Powers and duties of trustees
  1. Prudent person rule
  2. Duty of care
  3. Duty of loyalty
  4. Duty to act impartially
  5. Principal and income allocations
- II. Future interests
  - A. Classification of reversions, remainders, and executory interests
  - B. Life estates and terms of years
  - C. Vested and contingent interests
  - D. Powers of appointment
  - E. Acceleration of future interests
  - F. Rule Against Perpetuities
    1. Common law
    2. Wait-and-see
    3. Cy pres
    4. Other reforms
- III. Construction problems
  - A. Survivorship problems
  - B. Gifts to classes
  - C. Gifts to heirs
  - D. Doctrine of Worthier Title
  - E. Gifts to children and issue
    1. Adopted children
    2. Children born out of wedlock
  - F. Death without issue
  - G. Gifts by implication

### Uniform Commercial Code

NOTE: Examinees should assume that the 2001 text of Article 1 has been adopted. Article 2, Sales of Goods, is included under the Contracts specifications.

### **Negotiable Instruments and Bank Deposits and Collections**

NOTE: To test knowledge of the basic principles of negotiable instruments (including both notes and checks) more fairly and effectively, section VIII, bank collections (sections in Article 4 dealing with issues unique to checks), has been added to these specifications. These added Article 4 specifications do not, however, include issues relating to the check collection system that are addressed in a combination of Article 4 and federal regulatory law. Section VIII will not appear on an MEE exam until 2013 or later.

- I. General UCC principles
  - A. General provisions (UCC Article 1, Part 1)
  - B. General definitions and principles of interpretation (UCC Article 2, Part 2)
  - C. General rules (UCC Article 1, Part 3)
- II. General provisions and definitions (UCC Article 3, Part 1)
- III. Negotiation, transfer, and indorsement (UCC Article 3, Part 2)
- IV. Enforcement of instruments (UCC Article 3, Part 3)
- V. Liability of parties (UCC Article 3, Part 4)
- VI. Dishonor (UCC Article 3, Part 5)
- VII. Discharge and payment (UCC Article 3, Part 6)
- VIII. Bank collections
  - A. General provisions and definitions (UCC §§ 4-101 through 4-105)
  - B. Collection of items: transfer and presentment warranties; bank as holder in due course (UCC §§ 4-207, 4-208, 4-210, 4-211)
  - C. Relationship between payor bank and its customer (UCC Article 4, Part 4)

**Secured Transactions**

- I. General UCC principles
  - A. Rules of construction and application (§ 1-101, *et seq.*)
  - B. General definitions and principles of interpretation (§ 1-201, *et seq.*)
- II. Applicability and definitions (§ 9-101, *et seq.*)
  - A. Subject matter of Article 9 (§ 9-109)
  - B. Perfection of security interests in multiple state transactions (§ 9-301)
  - C. Excluded transactions (§ 9-109)
  - D. Definitions: “account”; “purchase money security interest”; “control” (§§ 9-102 through 9-107)
  - E. Classification of goods (§ 9-102)
  - F. Including sufficiency of description (§ 9-108)
  - G. Including security interests arising under Article 2 (§ 9-110)
  - H. Priority of consignments (§§ 9-103, 9-324)
- III. Validity of security agreements and rights of parties (§ 9-201, *et seq.*)
  - A. Title to collateral immaterial (§ 9-202)
  - B. Enforceability (§ 9-203)
  - C. After-acquired property; future advances (§ 9-204)
  - D. Use or disposition of collateral by debtor (§ 9-205)
  - E. Collateral in secured party’s possession (§§ 9-207, 9-208)
  - F. Request for accounting (§ 9-210)
- IV. Rights of third parties; perfected and unperfected security interests; rules of priority (§ 9-301, *et seq.*)
  - A. Priority over unperfected security interests (§ 9-317)
  - B. Requirement of filing and steps to be taken for perfection (§§ 9-308 through 9-316; § 9-501, *et seq.*); assignment of security interest (§§ 9-514, 9-519)
  - C. Protection of buyers of goods and chattel paper (§§ 9-320, 9-330), including protection of holders and purchasers of negotiable instruments (§ 9-331)
  - D. Priority of liens arising by law (§ 9-333)
  - E. Alienability of debtor’s rights (§ 9-401)
  - F. Priority among conflicting security interests (§§ 9-322 through 9-329)
  - G. Fixtures (§ 9-334)
  - H. Accessions; commingling (§§ 9-335, 9-336)
  - I. Subordination (§ 9-339)
  - J. Defenses against assignee; modification of contract (§§ 9-404 through 9-406)
  - K. Termination statement (§ 9-513); release of collateral (§ 9-512)
- V. Default (§ 9-601, *et seq.*)
  - A. Rights and remedies on default (§§ 9-601 through 9-606)
    - 1. Including secured party’s collection rights (§ 9-607)
    - 2. Including secured party’s right to take possession and dispose of collateral (§§ 9-608 through 9-624)
  - B. Debtor’s rights (§§ 9-625 through 9-628)