

AMENDED AND RESTATED  
BYLAWS  
OF  
AMERICAN COLLEGE OF BANKRUPTCY FOUNDATION

Updated and adopted: October 30, 2019

**Bylaws of the American College of Bankruptcy Foundation**

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**BYLAWS**  
**OF**  
**AMERICAN COLLEGE OF BANKRUPTCY FOUNDATION**  
**(a Virginia Nonprofit Corporation)**

These bylaws of the American College of Bankruptcy Foundation (the “Foundation”) have been adopted and amended through October 30, 2019.

**ARTICLE I**

**Officers; Agent; Seal**

1. **Purposes of the Foundation.** The Foundation funds projects that improve the quality of bankruptcy law and practice, as well as access to justice through its financial support of bankruptcy and insolvency-related pro bono legal service programs in the United States. The Foundation raises and manages funds and evaluates grant applications. Together with the American College of Bankruptcy, the Foundation is the country’s largest nongovernmental financial supporter of such programs.

2. **Offices.** The principal office of the Foundation and such other offices as it may establish from time to time shall be located at such place or places either within or without the State of Virginia, as may be designated by the Board of Directors or by the officers pursuant to authority from the Board of Directors.

3. **Seal.** The seal of the Foundation, if any, shall be in such form as the Board of Directors prescribes.

**ARTICLE II**

**Directors**

1. **Powers.** The affairs of the Foundation shall be managed by the Board of Directors. The Board of Directors shall possess, and may exercise, any and all powers granted to the Foundation by law, the Articles of Incorporation, and these Bylaws.

2. **Number.** The Board of Directors shall consist of not less than ten (10) nor more than twenty-five (25) Directors, the exact number to be determined by the Board of Directors of the American College of Bankruptcy (the “ACB”). The number of Directors may be increased or decreased by amendment of the Bylaws provided that no such amendment may reduce the total number of Directors to less than three (3), and no reduction in the number of Directors shall have the effect of shortening the term of any Director in office at the time such amendment becomes effective. Up to five (5) Directors may be Senior Directors, who are Fellows who at the time of their election are (i) 60 years or older, and (ii) so designated as Senior Directors.

3. **Qualifications.** Members of the Board of Directors need not be residents of Virginia. A Director may not serve for more than two consecutive terms, provided however, that (a) a Director elected to fill a vacancy in an existing term with less than one year remaining may



serve two additional consecutive terms, and (b) the limitation on serving more than two consecutive terms set forth in this sentence does not apply to Senior Directors. A Director shall be a Fellow of the ACB and not less than five (5) members of the Board of Directors must be directors, officers or regents of the ACB at the time of their election as directors of the Foundation.

4. Election. The Board of Directors of the ACB shall elect the Directors of the Foundation at the time of the Annual Meeting of the ACB except that a vacancy may be filled at any time.

5. Term of Directors. Beginning in 2020, each Director shall be elected for a two-year term of the office. Directors elected before 2020 serving a first term shall be eligible to be elected for a second two (2) year term after completion of their first three (3) year term. Whenever the number of Directors is increased or decreased, new Directors (other than Senior Directors, who shall serve a single, two-year term as a Senior Director) shall be elected for one-year or two-year terms, so that ultimately the terms of not more than one-half of the Directors (exclusive of Senior Directors) expire each year. Directors shall serve until their successors are duly elected and qualified, or until their death, resignation or removal.

6. Resignation. Any Director may resign at any time by giving written notice of such resignation to the Chair of the Board of Directors or the Secretary. Unless otherwise specified in such notice, the resignation shall be effective upon delivery. A Director of the Foundation shall be deemed to resign if he or she ceases to be a Fellow of the ACB.

7. Removal. Any Director may be removed from office, with or without cause, by a three-fifths majority vote of either the Board of Directors of the ACB or the Directors of the Foundation present in either case at a special meeting of the Board of Directors called for such purpose by notice stating that the purpose or one of the purposes of the meeting is the removal of such Director. Absence from two (2) consecutive meetings of the Board of Directors may be considered as cause for removal.

8. Vacancies. A vacancy in the Board of Directors, including a vacancy created by an increase in the number of Directors, shall be filled by the Board of Directors of ACB. A Director so elected shall serve for the remainder of the unexpired term.

9. Reimbursement. Members of the Board of Directors shall receive no compensation for their services but, by resolution of the Board of Directors, may be reimbursed for reasonable and necessary expenses paid while acting on behalf of the Foundation. Nothing herein shall preclude any Director from serving the Foundation in any other capacity and receiving compensation therefor as authorized by the Board of Directors.

### **ARTICLE III**

#### **Meetings of Directors**

1. Place of Meetings. The Board of Directors may hold meetings, annual, regular, or special, either within or without the State of Virginia.

2. Annual Meetings. The Board of Directors shall hold a regular annual meeting at a time and place set by the Board of Directors. Notice of such meeting shall be given to each Director at least fifteen (15) days prior to the date of the meeting.

3. Regular Meetings. Additional regular meetings of the Board of Directors may be held at such times and places as may be determined by the Board of Directors. Notice of such a meeting shall be given to each Director at least ten (10) days prior to the meeting.

4. Special Meetings. Special meetings of the Board of Directors may be called by the Chair of the Board of Directors, or two Directors, on at least ten (10) days notice to each Director.

5. Quorum; Vote; Adjournment. The Chair of the Board of Directors shall preside at all meetings of the Board of Directors. In the absence of the Chair, the Vice Chair shall preside and in the absence of the Vice Chair the Secretary shall preside. At all meetings of the Board of Directors, the presence of a majority of the Directors in office shall constitute a quorum for the transaction of business. There shall be no voting by proxy unless the Chair determines otherwise. The affirmative vote of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, unless the affirmative vote of a greater number of Directors is specifically required by law, the Articles of Incorporation, or these Bylaws. If a quorum is not present at a meeting of the Board of Directors, the Directors present may adjourn the meeting until a quorum is present.

6. Action by Consent. Any action required or permitted to be taken at a meeting of the Board of Directors or of any committee may be taken without a meeting if written consents setting forth the action taken are signed and dated by all of the members of the Board of Directors or of such committee, as the case may be. Such consents (which may be one instrument or several instruments) shall be filed with the minutes of the proceedings of the Board of Directors or of the committee. Unless otherwise specified in such consents, the effective date of any action so taken is the date on which the last Director signs the consents. Any action so taken shall have the effect of a vote taken at a meeting of the Board of Directors. Such consents may also be provided by e-mail communication from the Director if approved by the Chair.

7. Meetings by Telephone. Meetings of the Board of Directors may be by telephone, and the members of the Board of Directors or of any committee may participate in a meeting by means of a conference telephone or similar communications equipment by which all Directors participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

8. Notices; Waiver of Notice. Any Notice required by these Bylaws may be given in writing, in person, by mail, courier, or overnight delivery, or by facsimile or email. Any Director may waive notice of any meeting.

## ARTICLE IV

### Committees

1. Committees of the Board. The Board of Directors may, by resolution adopted by majority of all Directors in office, establish such committees having and exercising the authority



of the Board of Directors as it deems necessary or proper. Each committee must be composed of at least two (2) members of the Board of Directors and otherwise shall consist of Fellows whether or not such Fellows are members of the Board of Directors. The Board of Directors may make such provisions for appointment of the members and chairpersons such committees, establish such procedures to govern the committees, activities, and delegate management of the property, affairs, business, and activities of the Foundation; provided, that the Board of Directors shall not delegate to any committee authority to (1) adopt or approve a plan of merger or consolidation; (2) authorize the voluntary dissolution of the Foundation; (3) elect, appoint, or remove any Director or officer; or (4) amend, adopt, or repeal the Article of Incorporation or the Bylaws. Unless otherwise specified in the resolution establishing a committee, a committee's authority shall continue until terminated by the Board of Directors, and a vacancy in a committee shall occur when a member thereof ceases to be a Director.

2. Pro Bono Committee. The Board of Directors shall establish a Pro Bono Committee consisting of Fellows, including not less than six (6) members of the Board of Directors, and shall appoint one member, who shall not be an officer of the Foundation, as the Chair of the Pro Bono Committee. The Board of Directors of the Foundation shall establish the budget for the Pro Bono Committee taking into account whatever contribution it will receive from the College and whatever other factors the Board of Directors of the Foundation deems relevant. The Pro Bono Committee shall establish procedures for obtaining and reviewing applications for financial assistance from organizations involved in bankruptcy matters within and without the United States, and shall make awards of financial assistance to such organizations consistent with the budget. No member of the Pro Bono Committee shall vote upon the application of any organization where the member, or a Family Member, as defined in the College's Conflict of Interest Policy, of such member, is an officer or director.

3. Reports of the Pro Bono Committee. The Pro Bono Committee shall prepare a written report of the Board of Directors of the Foundation and to the Board of ACB not less than annually setting forth the names of such recipients, the purposes of the award, and the amounts of such awards. The Board of Directors of the Foundation and the Board of the ACB may request such other material from the Pro Bono Committee as those Boards may deem advisable.

4. Advisory Committees. Other committees not having and exercising the authority of the Board of Directors may be constituted and members thereof appointed by a resolution adopted by majority of the Directors present at a meeting of the Board of Directors at which a quorum is present.

5. Executive Committee. The Board of Directors shall establish an Executive Committee consisting of the Chair of the Board of Directors, the Vice Chair, the Treasurer, the Secretary and the Chair of the Pro Bono Committee; the General Counsel of the ACB shall serve as an *ex officio* member of the Executive Committee. The Executive Committee shall have the power to act for the Board of Directors in the event it is not reasonably possible for the Board to act in time. Such determination shall be made by the Chair.

6. Committee Meetings. Meetings of any committee shall, to the extent not otherwise specified in resolutions of the Board of Directors, be conducted in accordance with the foregoing provisions of these Bylaws.