

# DyKEMA

Bankruptcy, Restructuring,  
Workout and Foreclosures

California | Illinois | Michigan | Texas | Washington, D.C.

[www.dykema.com](http://www.dykema.com)

Dykema's Bankruptcy, Restructuring, Workout and Foreclosures practice is staffed by skilled bankruptcy practitioners, transactional attorneys, and seasoned litigators who provide strategic solutions for clients involved with distressed assets or nonperforming loans. Our attorneys apply an interdisciplinary approach to best represent lenders, mutual funds, hedge funds, insurance companies, and middle-market businesses facing restructuring of existing credit facilities, in- and out-of-court workouts, and insolvency-related litigation.

Dykema's attorneys are nationally known for their bankruptcy experience. For decades we have represented debtors as well as secured and unsecured lenders in all aspects of Chapter 11 reorganization and Chapter 7 liquidation cases.

### **Representation of Creditors**

Our depth of experience representing both lenders and borrowers in loan transactions, workouts, restructuring of distressed real estate and commercial credit facilities, and bankruptcy proceedings enables us to help lenders identify options and strategies for maximizing their recovery in troubled credit situations and minimizing risk and expense.

Dykema regularly represents special servicers—loan servicing firms (such as CWCapital) that receive a rating from one of the rating agencies to serve as the designated servicer on commercial real estate loans that become delinquent or are otherwise nonperforming. Dykema manages and performs all varieties of workout services and related litigation on behalf of such servicers.

In Chapter 11 reorganizations we work with secured creditors, unsecured creditors, and creditors' committees to recover pledged collateral, prosecute claims, realize upon liens and security interests, and defend creditors against whom claims have been asserted. We represent financial institutions in financing of Chapter 11 debtors through debtor-in-possession financing and cash collateral orders, negotiating adequate protection for use of

creditor assets by companies in bankruptcy, and recovering client property from debtors. We also represent creditors filing involuntary bankruptcy petitions, blocking the discharge of their claims against bankrupt borrowers, and opposing confirmation of reorganization plans. We have also filed and confirmed reorganization plans on behalf of secured and unsecured creditors, thereby taking control of the reorganization cases in order to maximize recovery on our clients' claims.

### **Workouts and Foreclosures**

Dykema represents commercial banks, special servicers, and investors who own distressed real estate debt in all phases of the real estate workout and foreclosure process. Dykema attorneys are experienced in handling forbearance agreements, loan modifications, deed-in-lieu of foreclosure transactions, distressed note sales, mortgage foreclosures, completion of construction, lease and sale of properties in receivership, suits against guarantors, fraud investigations, defending lender liability claims, and sales of REO property.

Dykema has broad experience with a wide range of real estate assets, including office buildings, industrial properties, retail centers, malls, multifamily housing projects, residential developments, hotels, golf courses, agricultural facilities, vacant land and land that is partially developed or intended to be developed for any of the foregoing uses. Our practice emphasizes creative and realistic approaches, strategies, and structures to limit a lender's risk and liability, and to maximize the value of the lender's assets.

### **Representation of Debtors**

Our representation of financially distressed businesses encompasses all types of debtor firms. Clients include entrepreneurs, nationwide retailers, finance companies, manufacturers, wholesalers, distributors, service organizations, trucking companies, hotels, shopping centers, office buildings, and apartment complexes. We represent

clients in every aspect of restructuring and reorganization, including working with secured and unsecured creditors, settling guaranteed obligations, collecting assets, and liquidating claims. Our attorneys advise purchasers of assets from companies in Chapter 7 or Chapter 11 proceedings, and we counsel receivers and assignees for the benefit of creditors.

The methods we use to solve the problems of financially distressed businesses include out-of-court restructuring, cases under Chapter 11 of the Bankruptcy Code, out-of-court composition, liquidation, receivership, assignments for the benefit of creditors, and sale of assets in cooperation with the debtor's lenders and trustees.

While our bankruptcy attorneys have decades of experience in representing clients in Chapter 7 and 11 proceedings, we are also knowledgeable about avoiding bankruptcy proceedings through out-of-court workouts.

## Litigation

Dykema's litigation attorneys have experience with all types of insolvency-related litigation, arbitration, and dispute resolution. We have substantial experience in commercial collection litigation, international asset collection, real estate foreclosure, and other insolvency-related litigation matters.

Our litigators have successfully pursued lawsuits involving collections on notes and guarantees, resolved intercreditor disputes, and foreclosed on assets securing asset-based loans. Our attorneys have represented lenders foreclosing on commercial, retail, and office properties; apartment buildings; farms; partially completed residential developments; and industrial, specialty, and mixed-use properties. We have liquidated virtually every type of asset, including shipping vessels, sailboats, locomotives, airplanes, metalworking and woodworking plants, perfume factories, bakeries, roofing material manufacturing plants, restaurants, cellular phone businesses, racetracks, and other esoteric

businesses. We have also represented receivers and mortgagees-in-possession, and we have been involved in several cutting-edge matters involving receivers, including their right to seize rents and other assets held by owners/borrowers.

## Industry Involvement

We actively participate in industry associations, including the American Bankruptcy Institute, American College of Bankruptcy, Illinois CPA Society, National Association of Bankruptcy Trustees, Turnaround Management Association, Risk Management Association, American College of Mortgage Attorneys, American Bar Association Banking and Lending Litigation Committee, and International Bar Association. In addition, our attorneys frequently write and speak about bankruptcy and insolvency topics.

For more information, please visit us at:

[www.dykema.com/bankruptcy](http://www.dykema.com/bankruptcy)

[www.dykema.com/restructuring](http://www.dykema.com/restructuring)



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