

Commercial Lending

Related Practices

Corporate Finance
Real Estate Finance

Related Industries

Energy Lending Transactions
Financial Services Regulatory & Compliance
Food & Beverage

Overview

Backed by an uncommon level of knowledge and experience in all aspects of lending, Dykema counsels lenders and borrowers on the full spectrum of loan transactions. We understand the technical requirements and pursue our clients' business objectives under an approach that recognizes both parties' legitimate needs and the fact that a loan transaction leads to an ongoing relationship where trust and confidence need to be maintained.

Commercial and Asset-Based Lending

For banks and institutional lenders, we provide guidance in structuring and documenting such transactions as bilateral and multi-lender loan facilities, asset-based loans, cash flow transactions, working capital facilities, leveraged buy-outs, ESOP loans, letters of credit and other credit enhancement devices, acceptance financing, competitive bid facilities and mezzanine financing. We also represent lenders in transactions that include financial hedging instruments such as interest rate and currency swap agreements. Our full-service approach to commercial and asset-based lending includes advice and guidance on loan extensions and modifications, subordination agreements and other intercreditor arrangements, including those with landlords, depository banks, securities intermediaries and other custodians, and bond trustees.

Our experience helps us understand the borrower's business and the associated risks in order to identify options and strategies for an appropriate loan structure. Often lending situations intersect with other legal specialties, such as environmental, intellectual property, tax, real estate, employee benefits and bankruptcy law. We know when to draw upon the experience of other Dykema attorneys in these practice areas to address efficiently these situations as they arise.

Real Estate and Construction Lending

Dykema has a highly experienced and widely recognized team of commercial real estate lending lawyers. We have significant experience performing due diligence, and documenting and closing real estate finance transactions throughout the United States. Further, we understand the requirements, standards, procedures and documentation of lenders involved in making such real estate loans.

We regularly represent clients in real estate finance matters in all sectors of the industry, including hotel developments, planned unit residential developments, subdivisions and timeshares, commercial mortgage securitizations, multifamily loan programs, retail, office, research and development, industrial and mixed-use projects, HUD financings, senior and assisted living developments, affordable housing projects, public/private projects, tax increment financing (TIFs), industrial revenue bonds and tax abatements and zoning, wetlands and other land use matters. We have also represented numerous special servicers of commercial mortgage backed securities (CMBS) portfolios in the resolution of defaulted loans.

Syndicated Loans and Club Deals

We regularly represent banks and institutional lenders in structuring and documenting syndicated and “club deal” loan facilities (as agent or as participant). Our attorneys know when and how to address the particular needs and concerns of a participating lender while protecting the interests of the lending group and the agent, in addition to the usual credit and documentation issues.

Restructuring, Workouts and Commercial Foreclosures

We pride ourselves in combining aggressiveness, efficiency and creativity in pursuing claims against borrowers and guarantors to assist lenders in collecting troubled credits. Our services range from negotiating in or out-of-court workouts and refinancing of troubled loans, to aggressive litigation when advisable to best achieve the client's goals. Our lending experience allows us to help troubled borrowers fashion acceptable alternatives to bankruptcy and liquidation.

We have abundant experience in forbearance agreements, deed-in-lieu transactions, receiverships, receiver's sales, refinancing transactions, debtor-in-possession or exit financing and financing of troubled company acquisitions. We are also able to help borrowers raise equity capital or financing from other sources such as suppliers and customers.

Dykema also regularly pursues remedies against borrowers and guarantors, and has liquidated virtually every type of asset, whether pursuant to Article 9 of the Uniform Commercial Code, as part of a receivership, in connection with assignments for the benefit of creditors or otherwise, including equipment, accounts, intellectual property, shipping vessels, sailboats, locomotives, airplanes, metalworking plants, woodworking plants, perfume factories, bakeries, roofing material manufacturers, restaurants, cellular phone businesses, racetracks and other less common businesses. We also have foreclosed on virtually every type of real estate, including, commercial, retail, office, apartment buildings, farms, partially completed residential developments, industrial, and specialty and mixed-use properties.

Dykema also regularly represents banks, other lenders and loan servicers in defending lender liability claims. Dykema is one of the very few firms nationwide with a class action defense practice devoted to the defense of lenders.

Publications

"Missing UCC Attachments in Pennsylvania"

April 2019

American Bar Association

"Some Free Advice: Is a MAC Clause the Answer?"

February 23, 2015

Metropolitan Corporate Counsel

"Municipal Bankruptcy: A Guide for Public Finance Attorneys (3rd Edition)" (Co-Author)

2015

National Association of Bond Lawyers

"Resurgence Of 'Negligent Loan Servicing' Theory In Calif."

September 17, 2014

Law360

"Borrowers' Challenges to Loan Modification Procedures and the Exclusive Statutory Remedy"

Fall 2013

Michigan Business Law Journal

"Michigan Municipal Law"

2012

The Institute of Continuing Legal Education

Speaking Engagements

The Future of Home Loans: eNotes and eMortgages

July 17, 2018

RESPA Sec. 8 Enforcement: CFPB Scrutiny of Settlement Fees, AfBAs and Marketing Service Agreements, " Strafford Live CLE Webinar

March 4, 2015

Large and Small: Practical Guidance for Navigating Third Party Vendor Management, Mortgage Regulatory Forum, Arlington, Virginia

September 2014

Navigating Social Media and Advertising Challenges, American Association of Residential Mortgage Regulators Annual Conference, Seattle, Washington

August 2014

CFPB Impact on the Reverse Mortgage Industry, American Conference Institute 3rd National Summit on Reverse Mortgage Lending, Dallas, Texas

March 2014

NMLS Licensing Form Updates and Enhancements for 2014 and Beyond, Sixth Annual NMLS User Conference and Training, Miami, Florida

February 2014

Hot Topics in Tax Exempt Finance, LeadingAge Michigan

April 25, 2013

When a Bond Deal Goes Bad: Defaults, Remedies and Workouts in Municipal Finance, National Association of Bond Lawyers 11th Annual Tax & Securities Law Institute

March 2011, 2013

Economic Crisis-Driven Transactions: Tools for Dealing with Financially Distressed Issues and Bond Transactions, National Association of Bond Lawyers 2010, 2011, 2012 Bond Attorneys' Workshop

Anatomy of a Defaulted Deal, National Association of Bond Lawyers 2012 Bond Attorneys' Workshop

October 2012

Crowdfunding and the IPO On-Ramp

June 5, 2012 (Los Angeles-area)

Crowdfunding and the IPO On-Ramp

May 23, 2012 (Detroit) and May 24, 2012 (Chicago)

Economic Crisis-Driven Transactions: Defaults Workouts and Bankruptcy Issues in Public Finance, National Association of Bond Lawyers 2011 Bond Attorneys' Workshop

October 2011

When a Bond Deal Goes Bad: Defaults, Remedies and Workouts in Municipal Finance, National Association of Bond Lawyers 9th Annual Tax & Securities Law Institute

March 2011

Defaults, Workouts and Bankruptcy Issues in Public Finance, National Association of Bond Lawyers 2010 Bond Attorneys' Workshop

October 2010

Build America Bonds, National Association of Bond Lawyers 2009 Bond Attorneys' Workshop

October 2009

The Realities of the Credit Markets, The Center for Charter Schools Central Michigan University Back to School 2009: Transforming Public Education

September 2009

Commercial Lending (Cont.)

P3s-Other Constituents and Considerations, Inaugural Michigan P3 Summit
September 2008

Government and Tribal Obligations, National Association of Bond Lawyers 2008 Bond Attorneys' Workshop
September 17, 2008

Effective Financing Strategies, Charter School Board Leadership Summit 2008
May 2008

Avoiding Legal Trouble in Charter School Finance, 10th Annual Michigan Charter Public School Conference
November 2007

Government and Tribal Obligations, National Association of Bond Lawyers 2007 Bond Attorneys' Workshop
September 2007

State Policy—Changing the Way Schools are Financed Locally, Illinois Facilities Fund Financing the Future: Meeting the
Needs of Charter Schools
February 2007