

Resources

“Distressed debt: How business owners can deal with having their debt sold to a third party”

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Dykema attorney, Brian R. Forbes, a member in the Firm’s Dallas office, was recently interviewed by *Smart Business Dallas* for the publication’s October 2012 article, “Distressed debt: How business owners can deal with having their debt sold to a third party.” The article discusses the stressful circumstances companies face when commercial loans are sold to third parties. Says Forbes about such a situation, “[d]on’t panic...[t]he more proactive and transparent you are, the more likely the asset manager responsible for your loan will internally advocate options that may allow opportunities for a mutually acceptable restructure.”

Forbes says that a third party purchaser of distressed debt “often has a different objective than the original lender,” and as a result is “seeking to maximize their investment returns in a short time frame.” The article suggests that this situation may provide opportunities for a borrower to negotiate more favorable loan terms, particularly since the debt was likely purchased at a discount. Forbes says that it is often desirable to be cooperative and transparent in dealing with the asset manager managing the transaction. He cautions that “the less information the asset manager receives, the more difficult the asset manager has evaluating the credit and recommending a favorable solution.”

Forbes goes on to discuss what to expect if a third-party buyer purchases a company’s debt, stating that the borrower should “anticipate that the new lender will be proactive in exercising its remedies under the loan documents in order to resolve the credit...” He continues by highlighting some of the best-case outcomes for a borrower in such a situation. To conclude, Forbes advises that it is important for borrowers to retain an expert immediately to help evaluate and determine the best resolution options.

[Click here to read “Distressed debt: How business owners can deal with having their debt sold to a third party.”](#)

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