

# BANKRUPTCY CREDITORS' RIGHTS



## Bankruptcy creditors' rights

Difficult financial markets, waning resources, and reduced spending are giving rise to the rate of bankruptcy filings in the recent months. It is important to take measures to protect your rights and interests during times of economic prosperity to ensure that those rights and interests remain protected in times of economic hardship.

Businesses both large and small are experiencing financial challenges with the uncertainty surrounding our economy. This is a critical time when many businesses may perish, leaving lenders, vendors, and other creditors of the businesses to wade through the bankruptcy process as a final hope of any recovery of what they are rightfully owed.

Bankruptcy and business insolvency issues arise well before the filing for bankruptcy. It is important to take measures to protect your rights and interests during times of economic prosperity to ensure that those rights and interests remain protected in times of economic hardship. The attorneys in the Bankruptcy & Creditors' Rights Practice Group at HBS are experienced in advising clients on bankruptcy and business insolvency issues that arise both prior to and during the bankruptcy process with a focus on protecting creditors and other interested parties that have been hailed into bankruptcy court in both commercial and consumer bankruptcy proceedings.

HBS offers both transactional and litigation experience in providing full-service bankruptcy counsel during the contractual and non-bankruptcy litigation stage as well as during bankruptcy litigation in proceedings filed under Chapters 7, 11, 12,

and 13 of the Bankruptcy Code. We have direct experience in contract formation, preparing and filing necessary documents for securing interests and perfecting interests, and obtaining pre-bankruptcy judgments and necessarily perfecting such judgments to ensure that our client's interests are protected if and when they are hailed into bankruptcy court.

We also have experience in the defense and prosecution of fraudulent transfers and conveyances and suits to recover fraudulent transfers and preference claims. Our team has assisted clients in pursuing secured claims, administrative expense claims, unsecured priority claims, general unsecured claims, and deficiency claims in Chapter 7, 11, 12, and 13 bankruptcy proceedings. HBS is equipped to handle all aspects, including litigation in non-bankruptcy and bankruptcy proceedings, to enforce creditor's rights under loan and lease agreements as well as property foreclosure requiring relief from the automatic stay in bankruptcy proceedings.

We also assist and advise owners, landlords and lessors of real property and personal property with contract disputes and protecting landlord and lessors rights during pre-bankruptcy eviction proceedings. HBS represents owners, landlords, and lessors in lease disputes and enforcing leases in bankruptcy litigation to ensure that our clients interests under the leases are protected throughout Chapter 7 and 11 bankruptcy proceedings. HBS also represents vendors in contract disputes both prior to and after the bankrupt party files for Chapter 7, 11, 12, or 13 bankruptcy relief.

HBS attorneys bring profound business and economic knowledge to this practice group, and our team is intimately familiar with banks and financial institutions involving lender liability, real estate matters, letters of credit and general liability. HBS has extensive experience with the FDIC and former representation of the Resolution Trust Corporation. We have also investigated, reviewed and resolved hundreds of transactions involving banks and savings and loans in North Carolina, South Carolina, and Georgia.

## Teams

## Leadership



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VIEW OUR FULL TEAM

## Related Industries

**Food & Agriculture**

**Retail & Hospitality**

Scientific developments, technological efficiencies, global trade, and government support and regulation have changed food and fiber production in the United States into a sophisticated and complex business. From a farmer's field to a consumer's kitchen table, complicated legal issues now arise for growers, agribusinesses, distributors, brokers, and food retailers. Hall Booth Smith (HBS) specializes in providing legal counsel to and litigation and regulatory advocacy for farmers and agribusinesses.

Because most of our Agriculture Law Practice Group attorneys either grew up on a farm, earned degrees in agriculture, or have spent their careers counseling farmers and agribusinesses, our specific and keen understanding of the business practices and needs of farmers and agribusinesses superiorly position us to handle any agricultural matter. With six offices located throughout Georgia and offices in South Carolina, Tennessee and Florida, we couple the expertise and reputation of a large firm with the accessibility of a local firm.

The legal issues farmers and agribusinesses face are often unique to the agriculture sector. For example, HBS handles issues for buyers and sellers under the Perishable Agricultural Commodities Act (PACA), a complex federal statute which establishes a code of fair business practices that protects businesses dealing in fresh and frozen fruits and vegetables. In many cases, the laws relevant to the issues facing agriculturists arise out of the laws and regulations that are applicable to any contract, insurance policy, property right, business organization, or succession plan.

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HBS helps hospitality industry clients both maximize their financial return and meet consumer service expectations.

Subject to a host of federal, state, county and municipal laws, regulations and code requirements and facing economic, real estate, employment and customer challenges, restaurants, hotels, leisure resorts, recreational facilities and other hospitality businesses turn to HBS for guidance. Our Hospitality lawyers are experienced advising on all aspects of hospitality businesses, from project conception and regulatory guidance through financing, development, operations and dispute resolution.

Whether addressing a labor and employment, transactional, privacy law, food and beverage, real estate or construction matter or attempting to resolve an issue involving employee benefits and compensation, intellectual property, data protection or potential liability, we advise our clients each step of the way, helping them leverage opportunities and avoid attendant risks. We vigilantly monitor the evolving regulatory and legal framework impacting our clients, to make sure that they are prepared for the future.

Our team of experienced litigators regularly handle claims for our hospitality industry clients in courts of all levels and has successfully defended class actions, multi-district litigation, personal injury claims, construction disputes and a wide variety of other matters. With a former State Senator and active government affairs attorneys, we are also adept at representing hospitality industry clients regarding their legal, regulatory and government affair challenges.

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## Real Estate

Hall Booth Smith guides real estate industry clients through the complexities of real property purchases, assessments, sales and leases, land use, zoning, financing and environmental issues, and a host of other concerns. HBS team represents virtually all players in the industry, including owners and occupiers, developers, real estate advisers, lenders, pension funds, insurance companies, governments, and hotel owners and operators. HBS , negotiates commercial and residential transactions of all types and sizes. Our real estate attorneys have advised clients throughout the life cycle of their property ownership from acquisition through development.

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## Insurance

From appraisals, coverage, claims and adjusting issues to drafting and review of insurance policy, regulatory compliance advice and dispute resolution, HBS assists insurance industry clients with resolving the many challenges they face.

In addition to managing risk and defending liability claims, we regularly advise clients on the full range of insurance products, services, and coverages, including general liability, automotive, life, property and casualty, director and officers' liability, professional malpractice, errors & omissions coverage, business interruption and environmental, cyber-risk and other specialty coverages and exclusions.

Our lawyers represent clients in courts of all levels throughout the United States, litigating class actions, multiparty and multi-district cases as well as individual lawsuits involving virtually every type of claim, coverage, fraud and bad faith action. We handle regulatory investigations and enforcement actions and are experienced with all forms of alternative dispute resolution. Active insurance coverage attorneys in the international insurance markets, we also help domestic clients gain access to the overseas market and assist foreign insurers in managing their domestic litigation.

As industry leaders, HBS Insurance Coverage lawyers have been recognized as Super Lawyers and Rising Stars in the field of insurance. Team members regularly write and lecture on insurance and property ISU issues, and are active members in insurance

industry groups. As a value-added, we offer clients employee training to help their staff understand the laws and regulatory requirements impacting their industry and strategies to minimize risk exposure.

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