

THESIS TITLE	LEGAL PROBLEMS ON FAILURE OF DEBT REPAYMENT FILING OF HONEST CREDITOR IN BANKRUPTCY CASE
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ABSTRACT

At present, a lot of dishonest debtors who are insolvent tried to find a gap of bankruptcy law as a tool to help themselves out of the burden of debt. This action could adversely affect honest creditor not to receive repayment of debt in a bankruptcy case. Although the bankruptcy laws in Thailand have legal measures in civil and criminal matters for punishment in such cases but there is also lack of enforcement. In addition, there is no remedial measure for damages occurred in the Thai bankruptcy law.

As a result of this, researcher has studied the Bankruptcy Act.2483, other related laws and theoretical concepts in both the foreign country laws and Thai laws to study the problems on failure to receive repayment of debt of honest creditors in the bankruptcy case. The study was conducted on entering bankruptcy process of debtor, application filing for debt repayment, debt compromise, bankruptcy discharge, determination of punishments and enforcement of civil and criminal measures against dishonest debtor of Model Law on Cross Border Insolvency of

UNCITRAL, England, United States of America and France. The researcher compares the various bankruptcy laws with Thai Bankruptcy laws to find solutions for honest creditors in the bankruptcy case and amendments to the laws so that they can be paid more. In this respect, the researcher suggested the amendment of Section 11 of the Bankruptcy Act B.E.2483 be made by specifying more Courts' fee in bankruptcy case and amending Section 28 so that the receiver must send the order on absolute receivership to all creditors. In addition, the notifications of receivership must be published at least in one of the daily newspapers in the relevant location and also be made in the online medias. Further, the wording "Force Majeure" must be defined with examples in case where the force majeure may prevent honest creditor from filing application for debt repayment in time and this should give a power to receiver to approve the late application filing. As for the criminal punishment, it is suggested that penalty and imprisonment in the Bankruptcy law, be increased especially, the imprisonment not exceeding seven years onwards and on the increase of penalty, half of the amount received should be allocated to plaintiff creditor in the criminal case for compensation of damages. With regard to the civil measures, it is proposed that the amendment should be made to the bankruptcy discharge by specifying that debtor will not be released in case that debtor does not provide details of its whereabouts to receiver and in that case, creditor is still entitled to request for execution of a judgment against debtor even though debtor has been discharged from bankruptcy.

According to the above suggestion, the researcher views that it is beneficial to the honest creditors and economic conditions of society as a whole and consistent with the intention of the bankruptcy law that a honest debtor can have an opportunity to start a new life while honest creditor will have a chance to be repaid fairly and equally and not less than that in a civil case.

