

Alternatives to bankruptcy
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Q. My company can't pay its debts. Are there any alternatives to bankruptcy?

The recession has caused an unfathomable number of Chapter 11 filings by high-profile corporations.

Business owners should be aware, however, that there are various alternatives to bankruptcy.

* Work-outs

A work-out involves the settlement of a company's debts with one or more of its creditors. While a work-out enables a company to continue operating and avoid the judicial process, it typically requires negotiating with the secured lender and numerous unsecured creditors. Thus, unlike a bankruptcy proceeding, where dissenting creditors can be compelled to accept a plan that a majority of the company's creditors have approved, if one or more dissenting creditors reject the terms of an out-of-court settlement and pursue collection of their debt, the entire work-out process may be jeopardized.

* Assignments for the benefit of creditors

An assignment for the benefit of creditors is similar to a liquidation under Chapter 7 of the Bankruptcy Code. Pursuant to state law, a company may assign all of its assets

to an assignee, who is responsible for liquidating the assets and paying the claims of creditors from the resulting proceeds. An assignment proceeding provides for a single forum to address the claims of all creditors. It is less expensive than a Chapter 11 bankruptcy proceeding.

* Dissolution

Where a company, formed under state law as a corporation or limited liability company, is no longer viable and has no substantial remaining assets, dissolution provides a simple and inexpensive method of winding down the company's affairs. While no judicial process is required to dissolve a corporation, creditors may continue prosecuting collection actions against the company and seek information regarding the disposition of the company's assets through a subpoena or similar methods.

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