

Law research proposal examples

[Business](#), [Company](#)



Corporate Insolvency

Australian Corporate Insolvency Law

Introduction

Thesis statement

Does the Australian corporate insolvency law provide too much advantage to secured creditors?

Aims and Objectives

This study aims to determine whether the Australian corporate insolvency law is providing more advantage towards secured creditors given that the law is supposed to insinuate equality, orderly procedure and equitable distribution of assets. The objective is to evaluate the law and identify the different aspects of the law that lead to the speculations of giving more advantage to secured creditors. Part of the objective is to consider the realities of creditor protection that needs to be applied to unsecured creditors since the advantage are mostly aimed towards secured creditors. The common scheme on the terms of receivership is that the receiver's primary role of collecting and selling charged assets of companies in order to settle the obligations owed to the creditors. There is a question of inequality in which the distribution of assets normally prioritizes secured creditors. The apparent advantage of the secured creditor is its ability to recoup outstanding assets without having to wait for the other unsecured creditors.

Research Design and Methodology

The study will require the methods of legal research methodology in which the thesis will be answered by doing a preliminary analysis. The first step is

to gather and analyze related facts to be followed by identifying and the legal issues in a logical manner. The next step in the preferred method is analyze secondary sources in which background information including case laws and statutory laws will be analyzed to construct a definite and logical pattern of ideas. In this regard, the Lexis and Westlaw search method is an important data gathering method that will allow the study to gain substantiated details that will provide answer to the given thesis. TARP method may assist the study to systematically analyze the identified facts and situations that will substantiate the response to the thesis.

Literature Review

Determining whether the Australian Corporate Insolvency Act is indeed providing too much advantage towards secured creditors, a clear understanding of the law should be considered first. According to the Parliamentary Joint Committee on Corporations and Financial Services (2004), the position of the Act in dealing with insolvency is to provide an efficient procedure for winding up companies. Procedures that governs corporate rehabilitation and reorganization are outlined in Part 5. 3A of the Corporations Act. This also includes the appointment of receivers and other individuals that are entitled to assume control of the assets (Teo, 2009). However, there are concerns about the provisions of the law particularly in the receiver clause because it constitutes greater priority towards secured creditors, which undermines the sense of equal asset distribution that the law strongly initiates (Purcell, 2010). Certain procedures linked to winding up companies such as establishing of entitlement through a proof of debt in the

liquidation process provides priority to secured creditors (Dickfos, Anderson and Morrison, 2007).

Significance of the Study

The study highlights the significance of realizing law equality; Kerr (2009) emphasized that the Corporations Act seeks to obtain the overarching aim of balancing the interest of creditors and debtors. However, certain provision of the said law constitutes a contradicting approach to asset distribution that puts secured creditors to a greater advantage. Having said that, examining the law is crucial in determining the contradicting provisions and point out the flaws that constitutes law inconsistency. This study suggests the importance of consistency in the law in order to effectively implement its intended function to provide fair and equal corporate opportunities.

References

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