

## THE LAW OF FAILURE

If a broker-dealer liquidates in federal bankruptcy court, why does an insurance company liquidate in state court, and a bank outside of court altogether? Why do some businesses reorganize under state law “assignments” rather than under the better-known chapter 11 of the Bankruptcy Code? Why do some laws use the language of bankruptcy but without advancing the policy goals of the Bankruptcy Code? In this illuminating work, Stephen J. Lubben tackles these questions and many others related to the collective law of business insolvency in the United States. In the first book of its kind, Lubben notes the broad similarities between the many insolvency systems in the United States, while describing the fundamental differences lurking therein. By considering the whole sweep of these laws – running the gamut from chapter 11 to obscure receivership provisions of the National Bank Act – readers will acquire a fundamental understanding of the “law of failure.”

**Stephen J. Lubben** holds the Harvey Washington Wiley Chair in Corporate Governance and Business Ethics at Seton Hall Law School. From 2010 to 2017 he was the “In Debt” columnist for the *New York Times*’s DealBook page. He has been widely quoted by courts and the media on chapter 11 cases, and has been retained as an expert in insolvency cases around the world. He previously practised law with the New York and Los Angeles offices of Skadden, Arps, Slate, Meagher & Flom as a member of the corporate restructuring department.

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Stephen J. Lubben  
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# The Law of Failure

**A TOUR THROUGH THE WILDS  
OF AMERICAN BUSINESS  
INSOLVENCY LAW**

**Stephen J. Lubben**

*Seton Hall University School of Law*



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## CONTENTS

Introduction .....	<i>page</i> 1
1 Why Business Insolvency Law? .....	5
2 The Federal Law of Business Insolvency .....	18
3 State Business Insolvency Law .....	56
4 Financial Institutions under Federal Law .....	98
5 State Financial Institution Insolvency Law .....	124
6 Looking for Patterns .....	146
7 Avenues for Reform .....	165
Index .....	185

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