

Thesis Title	Guidelines for improvement and amendment of bankruptcy law: A case study of the debtor who is unable to pay his debt
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ABSTRACT

This thesis aims to study guidelines for improvement and amendment of bankruptcy law: A case study of the debtor who is unable to pay his debt. The study is extended to the principle of bankruptcy law of Thailand, United States, United Kingdom and French Republic, including guidelines for legal drafting relating to cross-border insolvency of United Nations Commission on International Trade Law (UNCITRAL) and analyzes legal problems regarding the case of the debtor who is unable to pay his debt, which may occur in both Thailand and other countries in order to find guidelines for improvement and problem resolving regarding the debtor who is unable to pay his debt. According to the current bankruptcy law, it is found that such current law is insufficient to recover Thailand's economic, consequently decreases value of debtor's assets, and in addition, the debtor shall be enforcement throughout the bankruptcy proceeding only. On the contrary, the concept of new bankruptcy law focuses on the separation between the ability of administration of the debtor's assets and the debtor's potential and knowledge which may be useful for other persons' activities. Thus, in accordance with the bankruptcy law of developed countries such as United States, United Kingdom and European countries, the settlement of the debtor's debt shall be according to the debtor's condition and status in order to divide debtor's assets under the bankruptcy proceeding.

The study finds that the regulation of bankruptcy proceeding is stipulated in Bankruptcy Act B.E. 2483 that "the debtor is insolvent", provided that such regulation is stipulated in Section 7 and Section 8 of Bankruptcy Act B.E. 2483, such regulation is applied for a long time and it causes the problems regarding examining witnesses and defending in the court which is not necessary, including other problems according to the bankruptcy proceeding because

this is the commencement of the law suits such as the regulation of bankruptcy case, permanent receiving order, the allocable assets in the bankruptcy case. By comparing with the guidelines for legal drafting relating to cross-border insolvency of United Nations Commission on International Trade Law (UNCITRAL), countries which use the customary law and countries which use the construction law, this study found the regulation of bankruptcy case of such countries is the debtor is unable to pay debt in the due date, provided that such regulation may be alone or combine with other conditions of the bankruptcy case.

Therefore, the author would like to propose the guidelines for improvement and amendment of bankruptcy law regarding the debtor's quantification which may be adjudged bankrupt. In other words, the regulation which is specified that "the debtor is insolvent" should be replaced by "the debtor is unable to pay his debt" in order to resolve the problem regarding the debtor's quantification for saving the time and cost for bankruptcy proceeding. In addition, it will be consistent with the concept of the new bankruptcy law, the guidelines for legal drafting relating to cross-border insolvency of United Nations Commission on International Trade Law (UNCITRAL) and the bankruptcy law of countries which are acceptable that such bankruptcy law is modern and efficiently enforceable such as United States, United Kingdom and French Republic by outlining regulation and presumptions in order to be suitable for the bankruptcy law of Thailand.