

Are Economic Trends Pointing to a Busy Year for South Florida Bankruptcy Work?



The foreign investors who've helped juice the state's economy are particularly wary of what could happen if their investments go belly up.

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What You Need to Know

- With bankruptcy trends rising nationally, South Florida lawyers are preparing for a potential uptick in restructuring work.
- As Florida rides on an corporate boom, housing bonanza and international investment, it may face peril if any of those get hit.
- Consumer strength is also showing some signs of weakening, prompting some to worry of bad times to come.

South Florida corporate lawyers, dealing with a surge in cross-border activity, are keeping close tabs on the growing pace of bankruptcy filings as their clients take care to protect investors back home, while personal bankruptcy trends are also on the rise.

From January 2022 to January of this year, across all categories, bankruptcy filings are up by 19% across the country. And yet, while lawyers in both categories are finding themselves answering more questions, they've yet to witness a large surge, as the volume of filings lags behind pre-pandemic levels.

“From what was reported in January 2022 to January 2023, there’s been a 70% increase in Chapter 11 filings,” said Craig Rasile, a bankruptcy attorney at Winston & Strawn’s Miami office, emphasizing the tally is still muted compared to pre-2020 levels. “Prior to the pandemic, these would be paltry numbers. The numbers were much larger, they were filing 12 to 1,500 major Chapter 11 a year around the country and here we are under 300.”



But that doesn't mean bankruptcy lawyers aren't busy. Rasile says he's been seeing more action in the crypto space as well as a shift in how foreign bankruptcy filings are trending.

International Bankruptcies in the U.S.

Two Brazilian companies—retailer Americanas and telecom firm Oi—both filed for bankruptcy protections in New York within the last few months.

And following a recent surge in foreign investors looking at U.S. investments, Winston & Strawn has been getting a windfall of cross-border activity in Miami.

"Folks are getting their wealth out of the country and there's a huge lack of capital from those countries. I think more than 50% is coming to Miami," Rasile said.

As institutional investors move capital, they tend to go to firms like Winston for knowledge on what to expect if investments go belly up.

"These major players and financial institutions are doing their homework and trying to find out, if they're moving money to a foreign country like the United States, how to protect their investors back home," Rasile said. "We're seeing a fair amount of that."

And Rasile isn't the only local player seeing activity in this space.



Akerman has been keeping an eye on the foreign bankruptcy filings trending upwards, and it's expecting more to come, said Miami-based Andrea Hartley, chair of Akerman's bankruptcy and reorganization practice group.

In anticipation, her group is actively looking to continue expanding to keep pace with the market demands.

Housing Market As A Gauge

Meanwhile, Rasile is keeping an eye on the housing market as an indicator of whether things might be turning sour.

If home sales drop and people stop renovating their houses, he argues that it could set off a cascading effect. That effect could start with furniture companies taking a hit, along with sellers of appliances and electronics, which is what led to companies like Circuit City going out of business during the Great Recession.

Although Florida's housing market has cooled slightly over the past year, there's no signs of a huge drop off yet, according to [Redfin data](#).

But even still, signs of potential jeopardy within the construction and real estate industry are emerging, according to David Samole, a bankruptcy-focused partner at Miami-based boutique firm Kozyak Tropin Throckmorton.

"There has been some financial distress with some of the debt that has come due, and it's more expensive to get new debt," he said. "Both [in] the Southern District of Florida and also the Middle District of Florida, we have seen some more construction and real estate related cases filed."



Corporate Trends

With activity rising in the bankruptcy sector, Samole says he's talked to corporate clients on how to prepare for clients and vendors facing financial strain.

Although Florida's booming economy has been mostly shielded from recent economic hits, it isn't entirely safe if things take a dive.

Florida's corporate sector has been flooded with investment deals over the last few years, so if those start going south, the state may start feeling those impacts, said Jerry Markowitz, a bankruptcy mediator at Markowitz Ringel Trusty + Hartog.

Like Samole, others are preparing early in case there is trouble brewing.

"In uncertainty, there's opportunity, and the more time that you give a lawyer or your professionals, the greater likelihood for a good outcome," said Isacc Marcushamer, another bankruptcy-focused partner at Miami boutique firm DGIM. "The best bankruptcy is the one that never gets filed."

Marcushamer is seeing some of the same things as Samole. Although consumer confidence seems to be holding up, he's seeing debt levels that are higher than usual, which explains the current consumer strength. If there's any pullback on that strength, he's expecting impacts to ripple through various industries.



Growing Personal Debt

Along with household debt currently sitting at record highs, data shows that individual Chapter 7 filings are up by 2% this year while individual Chapter 13 filings are up by 10%.

And one sign pointing to less consumer strength is car payment default levels, Marcushamer said.

Lately, there's been an apparent uptick in car repossession cases for Fort Lauderdale-based bankruptcy attorney Chad Van Horn of Van Horn Law Group. The numbers are also showing that first payment default repossessions are trending up, which means that finance companies are getting more aggressive in repossessing.

Van Horn's firm does a lot of personal bankruptcy work, and it's seen almost a 55% increase in business from last year with expectations of hitting 60% soon.

"It's going to be a wild ride over the next couple of years," he said.

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