

1. Record Nr.	UNINA9910780527803321
Autore	Sarra Janis Pearl <1954->
Titolo	Creditor rights and the public interest : restructuring insolvent corporations // Janis Sarra
Pubbl/distr/stampa	Toronto, [Ontario] ; ; Buffalo, [New York] ; ; London, [England] : , : University of Toronto Press, , 2003 ©2003
ISBN	1-281-99429-4 9786611994297 1-4426-7359-1
Descrizione fisica	1 online resource (351 p.)
Disciplina	346.7107/8
Soggetti	Bankruptcy - Canada Debtor and creditor - Canada Corporate reorganizations - Canada Electronic books. Canada
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Bibliographic Level Mode of Issuance: Monograph
Nota di bibliografia	Includes bibliographical references and index.
Nota di contenuto	""Contents""; ""Acknowledgments""; ""Introduction""; ""1 The Existing Regime for Restructuring Insolvent Corporations""; ""Origins of the Canadian Restructuring Regime""; ""Overview of the Canadian Insolvency Restructuring Regime""; ""Proposals under the BIA""; ""Plans of Arrangement or Compromise under the CCAA""; ""Challenges Posed by Judicial Oversight of the CCAA""; ""2 Current Theoretical Approaches to Insolvency Law""; ""Market Theory Approaches to Insolvency""; ""Debt Collection Theory""; ""Rehabilitation Theory""; ""Enterprise Theory in the Governance of Insolvent Corporations"" ""Effective Corporate Governance in the Turnaround of the Insolvent Firm"" ""Achieving the Policy Objectives""; ""Measuring the Effectiveness of the Policy Instruments""; ""3 Proposing a Conceptual Framework for Reconciling Stakeholder Interests""; ""The Convergence and Divergence of Stakeholder Interest""; ""Public Policy Recognition of the Value of Workout Schemes""; ""Workers as Equitable Investors with Enhanced

Decision Rights"; "Assigning a Value to Human Capital Investments"; "Participation and Decision Rights That Flow from Valuing Equitable Claims"; "Negotiating Outcomes to Protect Investments and Create Future Value"; "An Expanded Definition of Stakeholders"; "The State"; "Local Trade Suppliers"; "Tort Claimants"; "The Nature of Community and Other Stakeholder Interest"; "Alternative Strategies for Recognition of Equitable Interests"; "Enterprise Value Maximization as a Substantive Objective of Insolvency Law"; "Directors to Act in the Best Interests of the Corporation Having Regard to the Investments of All Stakeholders"; "Principles for Reconciling Traditional Creditors' Rights with the Public Interest"; "The Role of the Judiciary in Reconciling Differences"; "4 Judicial Discretion under the CCAA"; "Judicial Recognition of the Public Interest"; "Purposive Interpretation or Judicial Overreach?"; "Use of the Stay Process to Recognize Diverse Interests"; "Debtor-in-Possession Financing"; "Definition of Classes as a Tool to Facilitate Restructuring"; "The Sanctioning of the Plan of Arrangement or Compromise"; "Ontario's Case-Managed System: Effective Judicial Oversight of Restructuring"; "Court-Appointed Officers and the Governance of Insolvent Corporations"; "The Monitor"; "Chief Restructuring Officers"; "Med-Chem and the Governance Role of Insolvency Professionals"; "5 Algoma Steel Corporation: Recognition of Human Capital Investments"; "The 1991 CCAA Restructuring of Algoma"; "Court Ordered Mediation as a Key Element in the 1991 CCAA Restructuring"; "Co-determination as an Integral Part of the Restructuring Plan"; "Recognition of Community as Stakeholder in the 1991 CCAA Proceeding"; "The 2001 CCAA Application of Algoma Steel Corporation"; "The 2001 Plan of Arrangement and Reorganization"

Sommario/riassunto

Creditor Rights and the Public Interest supports the greater representation of non-traditional creditors in the process of insolvency restructuring in Canada, concentrating particularly on restructuring under the federal Companies' Creditors' Arrangement Act (CCAA). Arguing in favour of the representation of such non-traditional creditors as workers, consumers, trade suppliers, and local governments, Janis Sarra describes the existing process of addressing their interests, analyzes four case studies that focus on non-creditor groups, and compares the Canadian approach to that of several other countries, such as Germany, France, and the United States. Sarra draws on a comprehensive body of academic literature that covers a broad range of issues insolvency theory, corporate governance theory, legislative history, and bankruptcy and insolvency practice. She further surveys the relevant legislation and supplements her analysis with insights drawn from extensive primary research of court records and personal interviews with lawyers, judges, and government officials. Creditor Rights and the Public Interest ultimately illustrates the way in which the concept of the public interest can be utilized to foreground the concerns of non-traditional stakeholders. Sarra provides a coherent account of the justification for recognizing these creditors by situating insolvency law in a legal regime that realizes a duty to maximize all of the interests and investments at stake in the corporation. In an academic field where scholarship is currently scarce, Sarra's text will be a welcome contribution.
