

ABHANDLUNG / ARTICLE

Too Hot to Handle : Extinguishing Secured Creditors' Interests in Insolvency under Japan's Civil Rehabilitation Law

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I. INTRODUCTION : THE LIMITS OF INSOLVENCY LAW ?

The Security Interest Extinguishing Scheme (*tanpoken no shômetsu seikyû seido*, hereafter Scheme) under Japan's *Civil Rehabilitation Law* (CivRL)¹ provides a comparative perspective on the famous conclusion that there are logical limits to the goals of insolvency law.² It also sheds light on the impact of Japan's prolonged economic malaise on

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1 *Minji saisei-hô* Law No. 225/1999, as amended; Engl. transl. prior to amendment: Australian Journal of Asian Law 2(2) (2000) 113 (S. STEELE trans.). The Law came into effect on 1 April 2000. See also S. STEELE, Evaluating the New Japanese Civil Rehabilitation Law, in: Australian Journal of Asian Law 2(1) (2000) 54; K. ANDERSON, Small Business Reorganizations: An Examination of Japan's Civil Rehabilitation Act Considering U.S. Policy Implications and Foreign Creditors' Practical Interests, in: American Bankruptcy Law Journal 75 (2001) 355; M. KODAMA, Introduction to Japanese Civil Rehabilitation Law, in: American Bankruptcy Institute Journal 20(8) (2001) 8.

2 A play on Jackson's seminal work, T.H. JACKSON, The Logic and Limits of Bankruptcy Law (1986). See also D.G. BAIRD, The Uneasy Case for Corporate Reorganisations, in: Journal of Legal Studies 15 (1986) 145 and D.G. BAIRD / T.H. JACKSON, Corporate Reorganizations and the Treatment of Diverse Ownership Interests: A Comment on Adequate Protection of Secured Creditors in Bankruptcy, in: The University of Chicago Law Review 51 (1984) 97-130, 101-102.