Insights

Your Customer Is Heading Towards Bankruptcy, What Should You Do Now?

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As inflation and interest rates rise, a recession is likely coming. A recession means more bankruptcy filings. Providers of goods and services often unknowingly find themselves embroiled in bankruptcy litigation if the provider received payment within 90 days of the customer's bankruptcy filing. Such payments, called a preferential transfer, may later be challenged by the debtor customer or trustee. If successful, the provider of goods and services may be forced to return such payments to the bankruptcy estate. Fortunately for providers, there are steps they can take now to avoid such litigation and minimize the risk of loss in the event of a preference challenge. While below is not a comprehensive list, these are the top four recommendations for suppliers:

1. Require prepayments from customers for goods and services;
2. Require COD (cash on delivery or cashier's check, not personal or business checks) payment for goods and services;
3. In appropriate circumstances, have a third party pay for goods and services; and/or
4. Keep and maintain thorough records.

If you believe a customer is heading towards bankruptcy and would like to mitigate your risks, the Creditors' Rights/Bankruptcy professionals at Krieg DeVault can help.