

Not So Bankruptcy-Remote SPEs and In re General Growth Properties Inc.

October 1, 2009 | Articles & Books

Special purpose entities (SPEs) have been used for years by various types of borrowers in financing transactions to isolate financial or other assets supporting a loan from the creditworthiness and default risk of the SPE's parent and affiliates. SPEs have been structured to be "bankruptcy remote" in an attempt to protect lenders from becoming entangled in a bankruptcy case caused by financial difficulties of other members of the corporate family. SPEs typically incorporate carefully crafted impediments to a bankruptcy filing in their organizational documents and loan agreements.

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