» **Print**

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.

Bankruptcy commission would reduce barriers to Ch. 11 exit

Mon, Dec 8 2014

By Nick Brown

(Reuters) - Bankrupt U.S. companies would have more leeway to impose restructuring plans over creditors' objections under new recommendations by a commission to overhaul Chapter 11 bankruptcy rules.

As part of a report to be issued on Monday, the American Bankruptcy Institute's Commission to Study the Reform of Chapter 11 recommended eliminating a rule that at least one impaired creditor class must vote to accept a company's bankruptcy exit plan for the plan to be eligible for court approval.

The rule allows savvy investors to block restructuring efforts by acquiring the lion's share of a bankrupt company's debt, attorney Robert Keach, the commission's co-chairman, said at the ABI's annual conference in Palm Springs, California.

The ABI, a trade group of 12,000 bankruptcy lawyers and other restructuring professionals, formed the commission in 2012 amid concerns that rising costs of Chapter 11 were deterring companies from filing for bankruptcy. The commission previewed some of its 428-page report at Saturday's conference ahead of its official release on Monday.

The commission's recommendations will not be legally binding, though members hope to make a presentation to Congress. "All we can do is recommend things," Keach said. "There's a long path between this report and legislation."

In all but the largest Chapter 11 cases, the commission also proposes reducing the appointments of official committees to represent the interests of unsecured creditors.

"We're not eliminating creditors' committees, but there would be a presumption against" them except where stakeholders can prove to a court that a committee is in the best interest of creditors, committee member Jack Butler said.

Other recommendations include the ability for a court to appoint a so-called estate neutral to help resolve creditor disputes, and a moratorium on asset sales within the first 60 days of a case.

Some bankruptcy professionals feel the expansion of secured debt has given lenders too much power in Chapter 11, leading to too many cases ending in quick sales rather than operational turnarounds. Some in the lending community, for their part, have criticized the commission as biased toward the interests of bankruptcy professionals and longer, more lucrative cases.

© Thomson Reuters 2014. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson Reuters and its logo are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

Thomson Reuters journalists are subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.