

破产风云

曹思源 著

中央编译出版社

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图书在版编目(CIP)数据

破产风云/曹思源著.

- 北京:中央编译出版社,1996.11

ISBN 7-80109-141-8

I. 破…

II. 曹…

III. 破产法-基本知识-中国

IV. D922.292

中国版本图书馆 CIP 数据核字(96)第 22212 号

破产风云

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出版:中央编译出版社

地址:北京西单西斜街 36 号(100032)

电话:66171396 66163377-618,617

经销:全国新华书店

照排:北京京鲁排印部(63044503)

印刷:北京印刷二厂印刷

开本:850×1168 毫米 1/32

字数:385 千字 印张:15.75

版次:1996 年 11 月第 1 版第 1 次印刷

印数:1—12000 册

定价:19.80 元

值此中国企业破产法诞生十周年之际，
谨以此书献给所有热心中国政治经济
变革的人们，包括曾对某些改革项目持反对
意见的朋友。我以为，各种不同意见的
争辩，对于改革的深化，恰起了极大的
推动作用。

曹思源

1996. 11. 7.



曹思源先生，江西景德镇人氏，1946年生。1968年大学毕业，先后任药厂工人、党校教师，1979年考入中国社会科学院研究生院经济学专业。1982年开始，先后在中共中央党校、国务院技术经济研究中心、国务院办公厅、国家体改委工作。1988年10月创办四通社会发展研究所暨思源兼并与破产咨询事务所，并任所长至今。已有专著3本，文章400余篇，共计180万字；在各地（包括电台、电视台）发表演说220余场，听众累计15亿多人次。

16A732/

A RECORD OF CHINA'S STORMTOSSED BANKRUPTCY LAW

Preface Determined to Search for Road of Reform
 Bankruptcy can Turn Well into Fortune

Chapter I Lobbyism Succeeds for the First Time

1. My Predestined Relationship with the Bankruptcy Law

- - Born in a Tailor's Family. He Who does not Work Neither shall He Eat
- - " Big Pot " Enterprise Dares to Stop Production
- - No Bankruptcy Law, No profit
- - A Post - Graduate Seminar
- - The First Thesis on Bankruptcy Deals with its Consequences

2. In 1983, the Word "Bankruptcy" Appears in a Central Government Document for the First Time

- - Leaving Party School to Join the Institution of Central Government
 - - Personal Opinion Sneaking into Officialese
3. Initiating Experiment with Bankruptcy in Wuhan
- - Studying at Night and Promoting Sales during the Day
 - - Meeting With the Mayor of Wuhan at Jingfeng Hotel, Successful Marketing
 - - Doubts among Municipal Institutions
 - - Holding on at the Last Five Minutes, My Stand for Many Years
 - - No.3 Radio Factory is Punished
4. Bankruptcy Experiment Takes Place in Three Cities
- - Li Changchun Realizes the Advantage of Bankruptcy and Turns to the Central Government for Consultation
 - - August 3, 1985. a Big Surprise
 - - The First Enterprise "Dies" According to law on August 3, 1986.
 - - Secretary Liao's Motto: We Must Have the Guts to Be a Pioneer
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- - Bankruptcy Law Wins Support from a Chemist
 - - The Central Government Takes Action One Week after the Motion Is Raised in the Parliament
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 - - Journalists Call Me "Lobbyist"

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 - - "Outlook" Weekly Discloses Message from the Authorities
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- - Special Program Arouses Unusual Repercussions
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 - - Turning to Jiang Zemin for Help, Asking for an Interview with Huang Ju
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 - - The Majority Opinion of the 16th Meeting of the NPC Standing Committee: The Time for the Bankruptcy Law Is Not Ripe
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 - - Another Lobby Activity

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 - - Article 35 of the Bankruptcy Law Is Misconstrued
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Founded

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 - - The Romans Punished Debtors with Cruel Penalties
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- 4. There Are Bankruptcy Laws in Socialist Countries
 - - Bankruptcy Law Existed in the Soviet Union for Many Years
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 - - Rumor Must be Restrained by Wisdom
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 - - When Will Banks Stop Their Passive Position
 - - Court Jurisdiction System Must Be Reformed

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- 4. Streamlining State - owned Enterprises Is the Essence of Reform
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 - - Downward Curve in the Ratio of State - owned Assets: It Is the Manifestation of Natural Immunity
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 - - Merge is Another Route of Property Rights
 - - A Direct Capital Market Offers a Bright Prospect for Enterprises

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 - - The More Forward Revision of the Bankruptcy Law
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 - - Official and Nonofficial Experts form a Joint Investigation Team
 - - Cramming to Put It into the NPC Legislative Agenda of 1994

- - "Redraft" is also a Kind of Revision

2. Focal Points of Revision

- - Avoiding a Tangle in the Words "Capitalism" and "Socialism"
- - Bankruptcy Law also Should Be Applied to Ordinary People
- - Affirming Reason for Bankruptcy Should Be in Accordance with International Practices
- - Court Regional Jurisdiction Should Cover both Creditors and Debtors
- - Reducing the Time of "Taking Charge of a Case, Making Higher Efficiency"
- - Liquidation Should Be "Specialized" and "Marketized"
- - Preventing Illegal Interference
- - Severely Punishing Fraudulent Bankruptcy
- - Legislative Process also Needs to Be Changed

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2. List of the Articles on Legislation of Bankruptcy Law
3. The Enterprise Bankruptcy Law of the People's Republic of China (For Trial Implement)
4. Opinions of the Supreme People's Court on Several Questions Concerning the Implementation of the Bankruptcy Law (For Trial Implementation)

5. Chapter 19 of the Civilian Procedural Law of the People's Republic of China
6. Opinions of the Supreme People's Court on Several Questions Concerning the Application of the Civilian Procedural Law of the People's Republic of China (Selected Documents)
7. Regulations on Unemployment Insurance of State-owned Enterprise Staff and Workers
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9. The Bankruptcy Law in 1935

自序

苦心探求变革路， 破产发财一点通

人生旅途，有时像持票乘船，有时又如水中漂游；有时走头无路，有时又柳暗花明。不同的人所走的路各不相同，车有车路、马有马路。西方人说，条条道路通罗马；而中国大陆，人们爱说：条条道路通向天安门。我在 33 岁那年，即 1979 年 9 月，买了一张从江西古老的瓷都景德镇到北京的火车票，竟从此就在北京定居下来了；更没有料到，从此开始了一条被许多朋友指指点点的“破产发财”之路。说心里话，这段旅程我事先并没有预订，是多年来寻寻觅觅、磕磕碰碰、漂游而至。

我从小在缝纫机旁长大，但不愿意做裁缝。邻家茶馆一位说大鼓书的艺人是我的启蒙老师。从 5 岁开始，我每晚都爱钻在茶客身后瞪大眼睛听那“彭公案”、“施公案”、“三国演义”和“说岳全传”。虽然大部分内容似懂非懂，但岳母在岳飞背上刺的 4 个字还