



Norton Bankruptcy Law Advisor: Preserving The Credit Bid: A Balancing Of Interests

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Everyone who has attended a commercial bankruptcy seminar or read an advance sheet in the past two years is aware of the "credit bid" controversy arising under the cram-down provisions of 11 U.S.C.A. § 1129(b)(2)(A)(ii) and (iii). Under § 1129(b)(2)(A) (iii), can a plan proponent sell property without allowing the creditor secured by that property to credit bid, instead giving that creditor the proceeds of an auction sale or a private sale based on a judicial valuation of the property, on the basis that such proceeds are the "indubitable equivalent" of the creditor's claim? A circuit split on the issue has arisen among the Third, First, Fifth,² and Seventh³ Circuit Courts of Appeals. On December 12, 2011, the U.S. Supreme Court granted certiorari in *In re River Road Hotel Partners, LLC*,⁴ which may, but is certainly not guaranteed to, resolve this conflict.

To read the whole article, download the pdf [here](#).