

Moving Forward Under Measure 91 Q&A

Series: Part I

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During our April 10 event, "Moving Forward Under Measure 91," in Portland, Ore., we addressed a number of complex issues regarding the developing marijuana industry. This blog series will answer questions that we may not have been able to get to during the Q&A portion of our event. Make sure to keep checking back here, or subscribe to our blog for updates!

"Is the Process of Bankruptcy Different for Marijuana Businesses?"

Some marijuana businesses and their owners have actually been denied the protection of bankruptcy in several U.S. courts. A bankruptcy trustee is an officer of the federal courts, and must uphold federal law. Because marijuana is a Schedule I drug under the federal Controlled Substances Act, some courts have deemed bankruptcy trustees unable to take possession of marijuana businesses and their assets. The trustees are therefore unable to perform their duties, and those bankruptcy cases have been dismissed. See, e.g., *In re Arenas*, 514 B.R. 887 (Bankr. D. Colo. 2014).

While federal bankruptcy protection may be unavailable to marijuana businesses until a change is made to federal law, it is possible that some state-level remedies will be available to insolvent marijuana businesses or their creditors. For more detailed information about marijuana businesses and bankruptcy, and recommendations for how to begin considering state-level approaches, see our article in Marijuana Venture magazine: "[Marijuana business denied protection by bankruptcy court.](#)"

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