

海南法院 Hainan Courts
破产审判工作白皮书暨典型案例
Bankruptcy Trial White Paper and
Model Cases
(2022 年度) (2022)



海南省高级人民法院
Hainan High People's Court

二〇二三年六月三十日

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前言 Preface

法治是最好的营商环境。2022年1月以来，海南法院坚持以习近平新时代中国特色社会主义思想为指导，在全面贯彻落实党的二十大精神开局之年发布破产审判白皮书和典型案例，充分体现了海南法院服务保障自由贸易港建设的高站位、新作为。海南法院坚持服务高质量发展大局，认真贯彻落实《海南自由贸易港优化营商环境条例》《海南自由贸易港企业破产程序条例》，推进不良市场主体依法快速出清，充分发挥破产程序资源配置和挽救功能，破产审判工作取得了较好的成效。

The rule of law plays a central role in the business environment. Since January 2022, Hainan courts have kept holding Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era. In the first year to fully implement the guiding principles of the 20th CPC National Congress, Hainan courts issued the *Bankruptcy Trial White Paper and Model Cases (2022)*, which fully reflects the high political stance and new achievements of Hainan courts in serving and supporting the construction of Hainan Free

Trade Port. Committed to serving the overall goal of high-quality development, Hainan courts have thoroughly implemented the *Regulations on Optimizing the Business Environment of Hainan Free Trade Port* and the *Regulations on the Bankruptcy Procedures for Enterprises in Hainan Free Trade Port*, promoted the clearing of underperforming market entities according to law, and given full play to the resource allocation and relief function of bankruptcy procedures, thus accomplishing remarkable achievements in bankruptcy trials.

2023年，海南法院将全面贯彻落实党的二十大精神，对标世界银行“营商环境”评估指标体系，进一步开拓创新，加强典型案例类案指引，创新破产处置府院联动工作机制，落实保障管理人依法履职的各项措施，普及强化破产保护理念，不断提升破产审判工作质效，探索困难企业救治和衍生诉讼案件调解机制新经验新做法，助力打造引领自由贸易港立法赋能新模式，为海南自由贸易港营造稳定、公平、透明、绿色的法治化营商环境提供强有力的司法服务和保障。

In 2023, Hainan courts will fully implement the guiding principles of the 20th CPC National Congress, and align

themselves with the World Bank's Business Enabling Environment, striving to further promote innovation in bankruptcy trials; will strengthen the guiding role of model cases, innovate the collaboration mechanism between the government and the courts in bankruptcy disposition, take various measures to urge bankruptcy administrators to perform their duties in accordance with the law, and popularize the idea of bankruptcy protection, aiming to continuously improve the quality and efficiency of bankruptcy trials; will explore new experiences and practices in rescuing distressed enterprises and mediating derivative litigation cases, and help to create a new model that leads the legislation of Hainan Free Trade Port. All these will help to provide strong judicial services and supports for creating a stable, fair, transparent, and green business environment under the rule of law in Hainan Free Trade Port.

一、海南法院破产审判基本情况 I. Overview of Bankruptcy Trials by Hainan Courts

(一) 案件受理基本情况(I) Case acceptance

海南法院认真贯彻落实“应收尽收”破产理念，积极破除破产申请受理法外门槛，2022年1月1日至12月31日，全省法院共受理强制清算案件、破产案件合计318件。其中，强制清算申请审查案件101件，占31.76%，强制清算案件91件，占28.62%；破产申请审查案件85件，占26.73%，破产清算案件37件，占11.64%，破产重整案件4件，占1.25%。Hainan courts have fully put into practice the principle of “accepting all eligible bankruptcy cases”, with a view to removing the non-law-related barriers to acceptance of bankruptcy petition cases. From January 1 to December 31, 2022, Hainan courts accepted a total of 318 cases involving involuntary liquidation and bankruptcy. Among them, there were 101 involuntary liquidation petition cases, accounting for 31.76%, and 91 involuntary liquidation cases, accounting for 28.62%; there were 85 bankruptcy petition cases, accounting for 26.73%, 37 bankruptcy cases, accounting for 11.64%, and 4 cases of bankruptcy reorganization, accounting for 1.25%.

强制清算申请审查案件 Cases about review of application for compulsory liquidation	强制清算案件 Cases of compulsory liquidation	破产清算案件 Cases of bankruptcy liquidation	强制清算案件 Cases of compulsory liquidation	破产申请审查案件 Cases about review of application for
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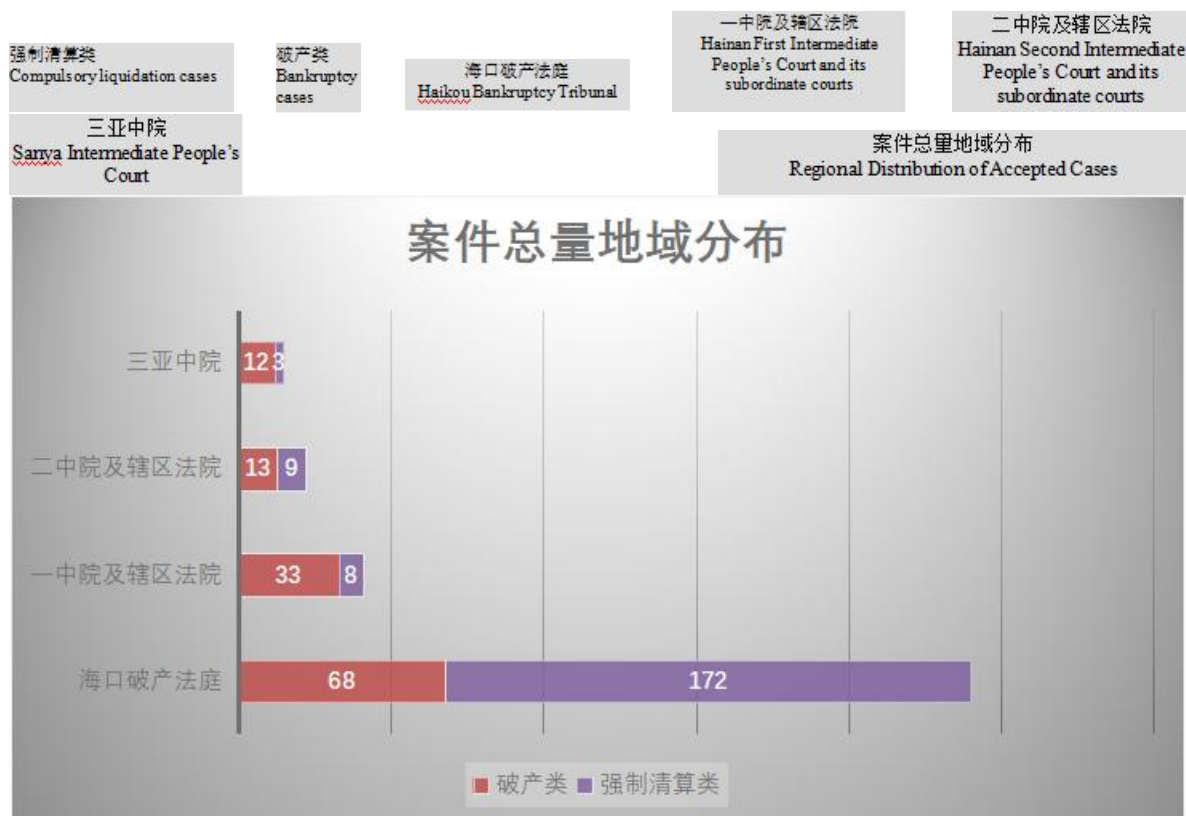
1.案件分布地域统计 1. Statistics of regional distribution of accepted cases

从受理法院分析，2022 年 1 月至 12 月期间，海南一中院及其辖区法院共受理强制清算案件、破产案件四类案件共计 41 件，其中，强制清算类案件 8 件，破产类案件 33 件。海南二中院及其辖区法院共受理强制清算案件、破产案件四类案件共计 22 件，其中，强制清算类案件 9 件，破产类案件 13 件。海口破产法庭共受理强制清算案件、破产案件四类案件共计 240 件，其中，强制清算类案件 172 件，破产类案件 68 件。三亚中院共受理强制

清算案件、破产案件四类案件共计 15 件，其中，强制清算类案件 3 件，破产类案件 12 件。Analysis of accepted cases by court: From January to December 2022, Hainan First Intermediate People’s Court and its subordinate courts accepted a total of 41 cases involving involuntary liquidation and bankruptcy, including 8 compulsory liquidation cases and 33 bankruptcy cases; Hainan Second Intermediate People’s Court and its subordinate courts accepted a total of 22 cases involving involuntary liquidation and bankruptcy, including 9 involuntary liquidation cases and 13 bankruptcy cases; Haikou Bankruptcy Tribunal accepted a total of 240 cases involving involuntary liquidation and bankruptcy, including 172 involuntary liquidation cases and 68 bankruptcy cases; Sanya Intermediate People’s Court accepted a total of 15 cases involving involuntary liquidation and bankruptcy, including 3 involuntary liquidation cases and 12 bankruptcy cases.

地区 Region 类型 Type	2022 年度 2022				
	清申 Involuntary Liquidation petition	强制清算 Involuntary liquidation	破申 Bankruptcy petition	破 Bankru ptcy	总 计 Total
海口破产法 庭 Haikou Bankruptcy Tribunal	87	85	42	26	240

一中院本部 Hainan First Intermediate People's Court	0	2	11	6	19
一中院辖区 Subordinate courts of Hainan First Intermediate People's Court	4	2	13	3	22
二中院本部 Hainan Second Intermediate People's Court	1	0	1	1	3
二中院辖区 Subordinate courts of Hainan Second Intermediate People's Court	8	0	7	4	19
三亚中院 Sanya Intermediate People's Court	1	2	11	1	15
总计 Total	101	91	85	41	318
	318				



2.案件类型统计 2. Statistics of case types

从案由分析，2022 年全省法院新收的 318 件案件中，破产申请审查案件 85 件，破产案件 41 件，破产类案件占全年新收案件总数的 39.62%。在破产申请审查案件中，申请破产清算的案件 81 件，占破产申请审查案件的 95.3%；申请破产重整的案件 4 件，占破产申请审查案件的 4.7%。Analysis of accepted cases by cause of action: Among the 318 cases accepted by Hainan courts in 2022, there were 85 bankruptcy petition cases and 41 bankruptcy cases, accounting for 39.62% of the total. Among the bankruptcy petition cases, there were 81 bankruptcy liquidation petition cases, accounting for 95.3%; there were 4 cases involving bankruptcy

reorganization petition, accounting for 4.7%.

从申请人的类型分析，2022 年全省法院新收的破产申请审查案件 85 件中，申请人为债务人或者其清算组的 19 件，占 22.35%；申请人为债权人的 66 件，占 77.65%。Analysis of accepted cases by applicant: Among the 85 cases of bankruptcy petition accepted by Hainan courts in 2022, there were 19 cases in which the applicants were debtors or their liquidation teams, accounting for 22.35%; there were 66 cases in which the applicants were creditors, accounting for 77.65%.

3. 结案方式统计 3. Statistics of the way of the conclusions of cases

2022 年立案的 85 件破产申请审查案件中审结 73 件；其中，受理破产的 33 件，不予受理的 40 件（含撤回起诉）；审结率 85.55%，受理率 38.82%，分别同比下降 6.76%、26.56%。2022 年立案受理的 101 件强制清算申请审查案件中审结 89 件；其中，受理强制清算的 78 件，不予受理的 11 件（含撤回起诉）；审结率 88.12%，受理率 77.23%。Among the 85 cases of bankruptcy petition filed in 2022, 73 cases were concluded, including 33 cases in which the applications for bankruptcy were approved, and 40 cases in which the applications for bankruptcy were not accepted (including cases withdrawn). The conclusion rate was 85.55%, and the acceptance rate was 38.82%, down 6.76% and 26.56%

respectively from last year. Among the 101 cases of involuntary liquidation petition accepted in 2022, 89 cases were concluded, including 78 cases in which the involuntary liquidation petition were approved, and 11 cases in which the involuntary liquidation petition were dismissed (including cases withdrawn). The conclusion rate was 88.12%, and the acceptance rate was 77.23%.

(二) 案件特点(II) Characteristics of cases

1.收、结案数量持续增长

1. The numbers of accepted and concluded cases saw a sustainable growth

2022年，随着近两年来海南法院内部对破产申请、强制清算申请受理审查工作逐步规范，案件受理渠道日益畅通，破产类、强制清算类案件数量总体呈增长态势。2022年全省法院新收破产申请审查案件85件，审结（不含旧存）73件，受理和审结的破产申请审查案件数量较2019年分别上升84.78%、92.11%。2022年全省新收强制清算申请审查案件101件，审结（不含旧存）89件，受理和审结的破产申请审查案件数量较2019年分别上升381%、394%。Because of increasingly standardized acceptance process of Hainan courts for bankruptcy and involuntary liquidation petitions, and increasingly smooth channels for case acceptance in the past two years, the number of cases involving bankruptcy and involuntary liquidation showed a growth trend in 2022. Courts in

Hainan accepted 85 cases of bankruptcy petition and concluded 73 of them in 2022 (excluding cases accepted before 2022), up 84.78% and 92.11% respectively from 2019. Meanwhile, Hainan courts accepted 101 cases of involuntary liquidation petition and concluded 89 of them in 2022 (excluding cases carried out from the previous year), up 381% and 394% respectively from 2019.

总体上看，2022年四类案件数量同比增长，但是，强制清算申请审查案件以及强制清算案件同比上升幅度巨大。主要原因在于：一是投资者的法治理念逐渐增强，尤其是对市场主体解散清算的认可度逐步提高，当事人从抗拒、抵制破产和强制清算，过渡到主动申请，并能够积极配合人民法院推进相关司法程序；二是海口破产法庭集约化、专业化审判优势进一步凸显，办案质效日益提升；三是受“僵尸企业”出清工作以及疫情影响。On the whole, there was an increase in the number of the four types of cases in 2022. However, the number of cases of involuntary liquidation petition and involuntary liquidation cases skyrocketed. The main reasons are as follows: (i) investors' awareness of the rule of law has gradually increased, especially their recognition of the dissolution and liquidation of market entities. In addition, parties involved have changed from resisting bankruptcy and involuntary liquidation to actively applying for and even cooperating with the relevant judicial process; (ii) the intensive and specialized trials of Haikou

Bankruptcy Tribunal have shown increasingly obvious advantages, resulting in improved quality and efficiency of case handling; (iii) the efforts in clearing “zombie enterprises” and the impact of COVID-19 also played a role.

2.案件地域分布比较集中

2. Cases were concentrated in certain regions

2022 年全省法院受理的 318 件案件中，海南一中院及其辖区法院受理 41 件；海南二中院及其辖区法院受理 22 件，海口破产法庭受理 240 件，三亚中院受理 15 件。从数据统计情况看，海口地区案件数量比重最高，占 75.47%，是破产类案件、强制清算类比较集中的地方；其次是海南一中院辖区和海南二中院辖区，分别占 12.89%和占 6.93%；三亚地区比重较低，仅 4.71%。Among the 318 cases accepted by Hainan courts in 2022, 41 cases were accepted by Hainan First Intermediate People’s Court and its subordinate courts, 22 were accepted by Hainan Second Intermediate People’s Court and its subordinate courts, 240 were accepted by Haikou Bankruptcy Tribunal, and 15 were accepted by Sanya Intermediate People’s Court. According to the statistics, the number of cases accepted in Haikou accounted for the highest proportion, i.e., 75.47%, making Haikou an area where cases of bankruptcy and involuntary liquidation were relatively concentrated; the number of cases accepted in the jurisdiction of Hainan First Intermediate People’s Court and in the jurisdiction of Hainan Second

Intermediate People's Court accounted for a lower proportion, i.e., 12.89% and 6.93% respectively; the number of cases accepted in Sanya accounted for the lowest proportion, only 4.71%.

3.强制清算类案件增幅明显，占比首次高于破产类案件

3. The number of involuntary liquidation cases saw a significant increase, and its proportion exceeded that of bankruptcy cases for the first time

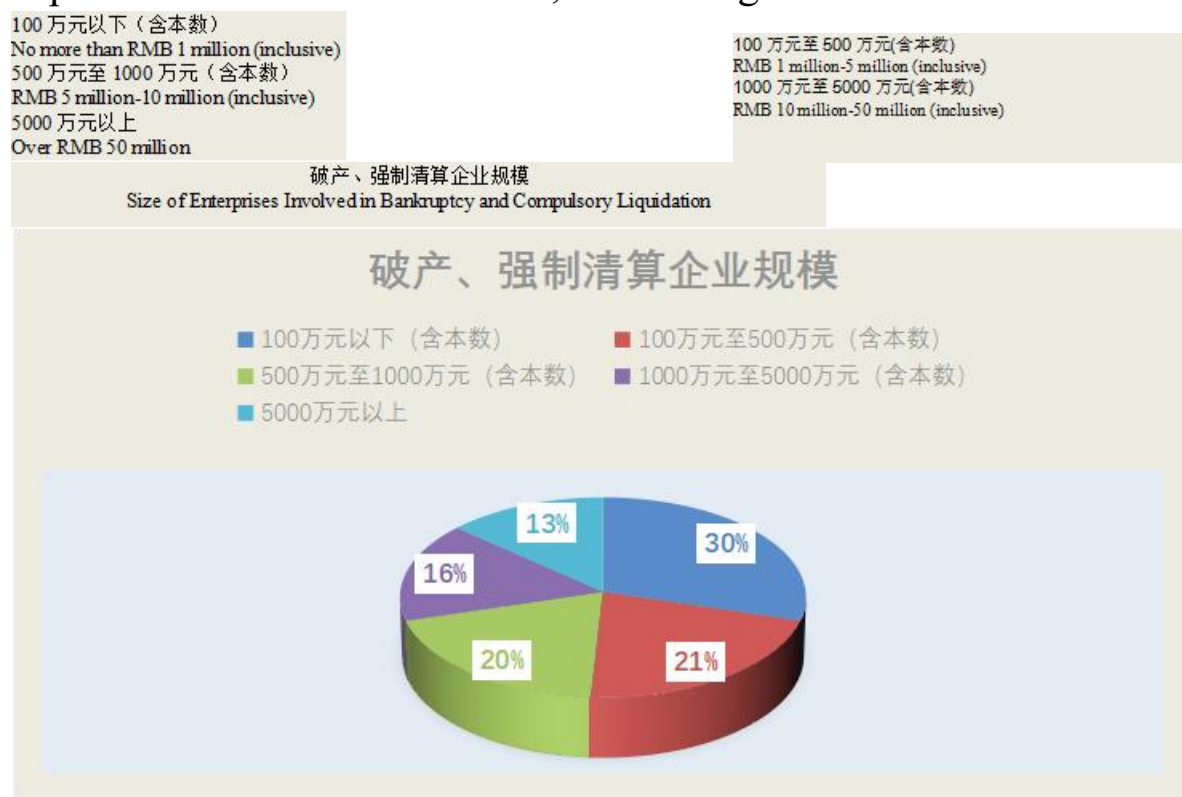
全省法院 2022 年受理的强制清算申请审查案件 101 件，强制清算案件 91 件，分别同比增长 71.19%、111.63%，占全年新收案件总数 52.46%，增长幅度属各类案件之最。In 2022, Hainan courts accepted 101 cases of involuntary liquidation petition and 91 cases of involuntary liquidation, representing a year-on-year increase of 71.19% and 111.63%, respectively. These cases accounted for 52.46% of the total cases accepted throughout the year, showing the highest growth rate among all types of cases.

4.破产、强制清算主体以中小型企业居多

4. The subjects of bankruptcy and involuntary liquidation were mostly small and medium-sized enterprises (SMEs)

破产及强制清算企业注册资本覆盖 50 万至 3.12 亿元区间。其中，注册资本 100 万元（含本数）以下的 64 家，占比 29.63%；100 万元至 500 万元（含本数）之间的 46 家，占比 21.30%；500 万元至 1000 万元（含本数）之间的 42 家，占比 19.44%；1000 万元至 5000 万元（含本数）之间的 35 家，占比 16.20%；5000

万元以上 29 家，占比 13.43%。The registered capital of companies involved in bankrupt and involuntary liquidation ranged from RMB 500,000 to RMB 312 million. Specifically, there were 64 companies with a registered capital of no more than RMB 1 million, accounting for 29.63%; there were 46 companies with a registered capital of RMB 1 million-5 million (inclusive), accounting for 21.30%; there were 42 companies with a registered capital of RMB 5 million-10 million (inclusive), accounting for 19.44%; there were 35 companies with a registered capital of RMB 10 million-50 million (inclusive), accounting for 16.20%; there were 29 companies with a registered capital of over RMB 50 million, accounting for 13.43%.



5.破产、强制清算主体性质以民营企业为主

5. The subjects of bankruptcy and involuntary liquidation were mostly private enterprises

破产及强制清算主体的企业包括民营企业、国有及集体经济企业，数量分别为 159 家、21 家，占比分别 84.57%、11.17%。破产及强制清算企业的出资人涉及港澳台及境外主体的仅有 8 家，民营企业所占比重远超其他性质的企业。The entities involved in bankruptcy and involuntary liquidation mainly included 159 private enterprises and 21 state-owned and collectively-owned enterprises, accounting for 84.57% and 11.17% respectively. Only 8 entities involved bankruptcy and involuntary liquidation had investors from Hong Kong, Macao, Taiwan or overseas countries. The proportion of private enterprises far exceeded that of other enterprises.

海南一中院及辖区法院破产申请审查案件 24 家均为民营企业；强制清算申请审查案件 4 家，1 家为合资企业（出资人为港资企业），其余均为民营企业。Hainan First Intermediate People's Court and its subordinate courts accepted 24 cases of bankruptcy petition, all of which involved private enterprises; and accepted 4 cases of involuntary liquidation petition, involving 1 joint venture (funded by a Hong Kong-funded company) and 3 private enterprises.

海南二中院及辖区法院破产申请审查案件 8 家，2 家是国有企业；强制清算申请审查案件 9 家，2 家是国有企业。Hainan Second Intermediate People's Court and its subordinate courts accepted 8 cases of bankruptcy petition, involving only 2 state-owned companies; and accepted 9 cases of involuntary liquidation petition, involving only 2 state-owned companies.

海口破产法庭破产申请审查案件 42 家,仅有 2 家国有企业；强制清算申请审查案件 87 家，其中 11 家为国有企业，7 家为合资企业（出资人为港澳台企业及瑞士企业）。Haikou Bankruptcy Tribunal accepted 42 cases of bankruptcy petition, involving only 2 state-owned companies; and accepted 87 cases of involuntary liquidation petition, involving 11 state-owned enterprises and 7 joint ventures (funded by investors from Hong Kong Macao and Taiwan and Swiss enterprises).

三亚中院破产申请审查案件 13 家均为民营企业，强制清算申请审查案件 1 家，为国有控股企业。Sanya Intermediate People's Court accepted 13 cases of bankruptcy petition, all of which involved private enterprises; and accepted 1 case of involuntary liquidation petition, involving a state-controlled company.

6. 债务人行业分布较为集中

6. Debtors were concentrated in several certain industries

海南一中院审理的破产案件、强制清算案件中债务人行业分

布在房地产业 4 家、商业服务业 4 家、软件服务业 2 家、批发零售业 2 家、工业仓储业 1 家。海南二中院审理的破产案件、强制清算案件中债务人行业分布在制造业 2 家、种植业 1 家、批发零售业 2 家。海口破产法庭审理的破产案件、强制清算案件中，债务人行业主要分布在批发零售业、商业服务业、房地产业、交通运输业等行业，其中，批发零售业 61 家，商业服务业 39 家，房地产业 37 家，制造业 15 家。三亚中院审理的破产案件、强制清算案件中债务人行业分布在房地产业、交通运输业、商业服务业，各 1 家。

In the cases of bankruptcy and involuntary liquidation accepted by Hainan First Intermediate People's Court, debtors were distributed as follows: 4 in the real estate industry, 4 in the commercial services industry, 2 in the software service industry, 2 in the wholesale and retail industry, and 1 in the industrial warehousing industry. In the cases of bankruptcy and involuntary liquidation accepted by Hainan Second Intermediate People's Court, debtors were distributed as follows: 2 in the manufacturing industry, 1 in the planting industry, and 2 in the wholesale and retail industry. In the cases of bankruptcy and involuntary liquidation accepted by Haikou Bankruptcy Tribunal, debtors were mainly concentrated in the wholesale and retail industry, commercial service industry, real estate industry, and transportation industry, including 61 in the wholesale and retail

industry, 39 in the commercial services industry, 37 in the real estate industry, and 15 in the manufacturing industry. In the cases of bankruptcy and involuntary liquidation accepted by Sanya Intermediate People's Court, debtors were distributed as follows: 1 in the real estate industry, 1 in the transportation industry, and 1 in the commercial service industry.

二、海南法院破产审判主要工作举措

II. Main Measures of Hainan Courts for Bankruptcy Trials

良好的营商环境是地区活跃经济、吸引投资的软实力和核心竞争力。良好的破产制度能够帮助债权人实现资产价值最大化；助力有救助可能的企业进行重组，快速有效关闭失败的企业；提高市场的确定性，促进经济的稳定与增长；鼓励贷款人提供高风险贷款；保障更多员工从事原有工作；保护供应商及客户网。2022年，海南法院大胆试、大胆闯，积极对标世界银行营商环境评估指标，完善细化破产审判工作制度建设。

A favorable business environment is soft power and core competitiveness that drives regional economic development and attracts investments. A sound bankruptcy regime can help creditors maximize the value of assets, facilitate the restructuring of viable enterprises, and enable the quick and effective closure of failed enterprises; enhance certainty of market, and promote economic stability and growth; encourage lenders to provide high-risk loans;

safeguard the employment of more workers, and protect the relationship with suppliers and customers. In 2022, Hainan courts made bold attempts to actively align themselves to the World Bank's Business Enabling Environment, and improved and refined the construction of the bankruptcy trial system.

(一) 破产审判营商环境更加优化

(I) The optimization of bankruptcy trials contributed to a business enabling environment

1.破产审判质效稳步提升

1. Steadily improved quality and efficiency of bankruptcy trials

2022年，全省法院新收实质进入破产审理程序的企业破产案件41件，同比下降53.41%，新收公司强制清算案件91件，同比增长112%，市场主体破产退出通道进一步畅通。

In 2022, Hainan courts accepted 41 bankruptcy cases in which enterprises actually entered the bankruptcy trial procedures, representing a decrease of 53.41% from last year, and accepted 91 involuntary liquidation cases, representing a significant increase of 112% from last year. This indicates that the exit regime for market entities through bankruptcy has been further facilitated and streamlined.

海南法院坚持落实“多重整救治、少破产清算”原则，持续加大企业破产挽救力度，受理破产重整案件4件，通过运用破产重

整、和解、预重整等多种机制，协助三亚凤凰岛国际邮轮港发展有限公司、海南新世通制药有限公司、五指山汇峰房地产开发有限公司、琼海明道实业有限公司等企业实现资源要素重新配置。 Upholding the principle of “increasing reorganization, and decreasing bankruptcy liquidation”, Hainan courts continued to increase their efforts in rescuing companies on the verge of bankruptcy. In 2022, Hainan courts accepted 4 cases of bankruptcy reorganization, and helped Sanya Phoenix Island International Cruise Terminal Development Co., Ltd., Hainan Xinshitong Pharmaceutical Co., Ltd., Wuzhishan Huifeng Real Estate Development Co., Ltd. and Qionghai Mingdao Industry Co., Ltd. relocate their resource elements by using various mechanisms such as bankruptcy reorganization, reconciliation, and prepackaged bankruptcy.

海南法院以“案案都是宜商环境”理念为引领，破产审判工作效率跑出自贸港速度。2022年，全省法院审结破产申请审查案件73件，审结案件数比2019年、2020年分别增长92.11%、32.33%。受理破产的案件33件，受理率比2019年、2020年分别提高了3.04、12.15个百分点。

Guided by the idea of making every case contribute to a business enabling environment, Hainan courts have achieved remarkable efficiency in bankruptcy trials, embodying the high speed of the Free

Trade Port. In 2022, Hainan courts concluded 73 cases of bankruptcy petition, representing a growth of 92.11% and 32.33% compared with 2019 and 2020 respectively. In addition, they accepted 33 bankruptcy cases, with the acceptance rate increasing by 3.04% and 12.15% compared with 2019 and 2020 respectively.

2.破产审判队伍专业化持续加强

2. Increasingly specialized bankruptcy trial team

海南高院积极推进破产审判机构专业化建设，不断优化审判资源配置。2022年，海口破产法庭严格按照“专业化、年轻化”的标准配置司法干警，首批五名破产法官、五名审判辅助人员均已配备到位。另外，海南一中院、海南二中院、三亚中院均设立了破产审判专业合议庭，负责公司强制清算案件、企业破产案件的立案审查、审理等各项审判工作。目前，海南已形成1个破产法庭、3个中级法院、5个基层法院破产审判合议庭的良好局面，为破产审判发展打下良好的组织基础。

Hainan High People's Court has actively promoted the specialization of bankruptcy trial organization, and constantly optimized the allocation of judicial resources. In 2022, Haikou Bankruptcy Tribunal employed staffs strictly in line with the principle of "specialization and youthfulness". The first five bankruptcy judges and five judge assistants have been in place. In

addition, Hainan First Intermediate People's Court, Hainan Second Intermediate People's Court, and Sanya Intermediate People's Court have all set up specialized collegiate benches for bankruptcy trials, which are responsible for the filing and handling of cases involving involuntary liquidation and bankruptcy. Currently, Hainan has established one bankruptcy tribunal, three intermediate courts, and five primary courts with collegiate benches for bankruptcy trials, thus laying a solid organizational foundation for the development of bankruptcy trials.

3.管理人队伍建设逐步完善

3. Gradually improved bankruptcy administrator team

一是根据 2018 年《全国法院破产审判工作会议纪要》第 5 条探索管理人跨区域执业的规定，2022 年 3 月 8 日，海南高院发布《海南法院破产案件管理人名册（2021 年）》，首次在全国范围内公开遴选了 60 家中介机构入册，建立全省统一管理人名册制度。其中，省外中介机构 36 家，省内中介机构 24 家，包括律师事务所、会计师事务所以及清算事务类机构等各类型的中介机构，规范了行业准入门槛。同时，为解决管理人能力与破产案件难易相匹配的问题，按照机构规模、专业能力、办理破产案件经验等因素，将管理人分为一级、二级管理人。

(i) According to the provisions on cross-regional practice of bankruptcy administrators in Article 5 of the *Minutes of the National*

Court Work Conference on Bankruptcy Trials published in 2018, Hainan High People's Court issued the *Register of Bankruptcy Administrators in Cases Heard by Hainan Courts (2021)* on March 8, 2022, publicly selecting 60 intermediary agencies nationwide for the first time and establishing a unified register system for bankruptcy administrators in Hainan. Among the selected intermediary agencies, there were 36 from other provinces and 24 from Hainan, including law firms, accounting firms and liquidation agencies. This move standardizes the access threshold. In order to match bankruptcy administrators' capability with the difficulty of bankruptcy cases, bankruptcy administrators are classified into first-level and second-level based on factors such as the size of agency, professional competence and experience in handling bankruptcy cases.

二是改进和完善管理人体制机制建设，出台《海南省高级人民法院破产管理人分级管理和选任暂行办法》，根据案件类型、难易程度、标的的大小等情况，将破产案件分为重大破产案件和普通破产案件二类，规定重大破产案件应在一级管理人名单内摇号指定；同时，该办法严格落实《海南自由贸易港企业破产程序条例》，创新性规定债务人与债权人经协商一致可联合推荐管理人的选任方式。海口破产法庭受理的全省首例预重整案首次采用了债务人与债权额占已知债权总额四分之一以上的债权人协商推

荐方式选任指定管理人，创新了管理人选任方式，取得了较好的效果。

(ii) Hainan High People's Court has made improvements to the administrator system, and issued the *Interim Provisions on Level-to-Level Management and Selection of Bankruptcy Administrators* ("the Provisions"), which categorizes bankruptcy cases into major bankruptcy cases and ordinary bankruptcy cases based on factors such as the type of case, difficulty level, and value of claims, and stipulates that the bankruptcy administrators of major bankruptcy cases shall be selected from the first-level bankruptcy administrators by lottery. In addition, the Provisions strictly implement the *Regulations on the Bankruptcy Procedures for Enterprises in Hainan Free Trade Port*, and innovatively stipulate that bankruptcy administrators can be jointly recommended by debtors and creditors through consultation. In the first prepackaged bankruptcy case in Hainan accepted by Haikou Bankruptcy Tribunal, the administrator was selected by the debtors and the creditors whose claims accounted for more than a quarter of the known claims for the first time. This innovative approach has achieved good results.

三是高度重视与实务界的交流合作，积极参与筹建海南自由贸易港破产管理人协会，主动与本地一级管理人召开破产处置工

作座谈会，听取对法院工作的意见和建议，协助解决管理人在履职过程中遇到的难点、“堵点”问题。

(iii) Hainan High People's Court has attached great importance to the communication and cooperation with the judicial practice realm; actively participated in the establishment of the Association of Bankruptcy Administrators in Hainan, and held discussions with local first-level bankruptcy administrators on bankruptcy disposition to listen to opinions and suggestions regarding the courts and helped bankruptcy administrators to address difficulties and troubles in performing their duties.

4.破产法治理论实务研究有效开展

4. Effective research on the theory and practice of bankruptcy under the rule of law

一是规范审判指导，首次发布破产审判白皮书暨典型案例。为充分发挥典型案例示范引导作用，统一全省基层法院裁判理念和监督标准，海南高院向全省各中基层法院收集在府院联动机制、快速审理等破产审判方面具有典型性和指导性的案例并汇编印发《海南法院破产审判典型案例》；同时，海南高院还发布《海南法院破产审判白皮书（2018-2021）》，向社会大众普及破产法治理念。

First, Hainan High People's Court has standardized the

guidance for bankruptcy trials by issuing the first Bankruptcy Trial White Paper and Model Cases. In order to give full play to the exemplary role of model cases, and unify the judicial ideas and supervision standards of primary courts across the province, Hainan High People's Court has collected typical and guiding bankruptcy trial cases in terms of government-court collaboration and speedy trial from intermediate and primary courts in Hainan Province, and published them as the *Model Cases of Bankruptcy Trials by Hainan Courts*. Additionally, Hainan High People's Court has also published the *White Paper of Bankruptcy Trials by Hainan Courts (2018-2021)* to popularize the idea of bankruptcy under the rule of law to the public.

二是开展学习交流，首次举办破产审判专题培训班。2022年6月，海南高院举办全省法院破产审判专题培训班，邀请知名学者以及最高人民法院资深破产法官对实质合并破产、简易破产等法律制度理论进行授课，并对人民法院如何有效破局“执转破”工作和建立破产处置府院联动工作机制进行解读。

Second, Hainan High People's Court has prompted learning and exchange of bankruptcy trial knowledge by organizing the first special training course on bankruptcy trials. In June 2022, Hainan High People's Court organized a provincial-level special training course on bankruptcy trials. Renowned scholars and senior

bankruptcy judges from the Supreme People's Court were invited to give lectures on the theoretical aspects of substantive consolidated bankruptcy, simplified bankruptcy, etc., and explain how the courts can effectively address the problem of change from enforcement to bankruptcy and establish a government-court collaboration mechanism for bankruptcy disposition.

三是创新对下指导工作形式，召开破产审判片区工作推进会。2022年2月，海南高院主动创新，分别以海口破产法庭、海南一中院、海南二中院为中心召开三次片区破产审判工作推进会，围绕破产案件集中管辖、长期未结案件清理、府院联动机制建设、“执转破”工作落实等问题进行深入研讨和交流，进一步拓宽上下级法院之间业务沟通交流的渠道。

Third, Hainan High People's Court has innovated the forms of guidance by holding regional work promotion meetings for bankruptcy trials. In February 2022, Hainan High People's Court took the initiative to organize three regional work promotion meetings for bankruptcy trials centered around Haikou Bankruptcy Tribunal, Hainan First Intermediate People's Court and Hainan Second Intermediate People's Court. These meetings facilitated in-depth discussions and exchanges on issues such as centralized jurisdiction of bankruptcy cases, clearance of long-pending cases, establishment of government-court collaboration mechanism, and

implementation of change from enforcement to bankruptcy, which further expanded the channels for communication and exchanges between superior and subordinate courts.

(二) 破产处置府院联动机制更加规范化

(II) Increasingly standardized government-court collaboration mechanism for bankruptcy disposition

1.完善、落实破产援助资金制度

1. Improve and implement the expenses assistance system for bankruptcy proceedings

2022年8月，为更好的管理省级财政拨款的第一期300万元保障资金，用好用活企业破产费用保障资金，海南高院制定发布《海南省高级人民法院破产费用保障资金管理和使用办法（试行）》，统一全省法院对破产费用保障资金的管理和使用。该办法规定，破产费用保障资金是专用于补偿或垫付管理人履行职务产生必须支付的破产费用，可以支付的破产费用范围包括：管理、变价和分配债务人财产的费用；管理人执行职务的费用；必要的测绘、评估、审计费用；档案保管费用；召开债权人会议的费用；管理人报酬和聘用工作人员的费用；经法院许可的其他费用。海口中院、三亚中院也相应出台了适用于本院的破产费用保障资金管理和使用的规范性意见。2022年，海南法院依法为资产不足以支付破产费用的破产案件申请援助资金3笔，共计65950.74

元，其中海南一中院支付 1 笔，39766.69 元，海口破产法庭支付 2 笔，合计 26184.05 元。

In order to better manage the first assurance funds of RMB 3 million from provincial financial allocation, and make full use of the bankruptcy cost assurance funds, Hainan High People's Court formulated and issued the *Measures for Management and Use of Bankruptcy Cost Assurance Funds (for Trial Implementation)* ("the Measures") in August 2022 to standardize the management and use of bankruptcy cost assurance funds by courts across the province. According to the Measures, the bankruptcy cost assurance funds are specially used to reimburse or advance the bankruptcy costs paid or payable by bankruptcy administrators in performing their duties, including: expenses for managing, valuing, and distributing debtors' assets; expenses for performing other duties; necessary expenses for surveying and mapping, evaluation, and auditing; archival keeping expenses; expenses for convening creditors' meetings; bankruptcy administrators remunerations and expenses for hiring related workers; and other expenses permitted by the court. Haikou Intermediate People's Court and Sanya Intermediate People's Court have also issued their normative opinions regarding the management and use of bankruptcy cost assurance funds. In 2022, Hainan courts applied for aid funds for three bankruptcy cases in which the assets

involved were insufficient to cover bankruptcy expenses, totaling RMB 65,950.74, of which one was applied for by Hainan First Intermediate People’s Court (RMB 39,766.69), and two were applied for by Haikou Bankruptcy Tribunal (RMB 26,184.05).

2.加强深化常态化府院协调

2. Strengthen and deepen normalized government-court coordination

海南高院认真对标法治化营商环境建设工作任务，构建完善各相关工作机制，主动对接职能部门，开展“点对点”实质联动，与中国人民银行海口中心支行、中国银行保险监督管理委员会海南监管局联合会签《关于进一步合作优化办理破产案件中涉金融业务的若干意见》，对管理人接管债务人银行账户、办理查询债务人账户信息、债务人账户资金划转、债务人非正常户激活或注销等银行结算账户业务办理事宜作出详细具体的规定，保障管理人便利履职。

Hainan High People’s Court has conscientiously participated in the construction of a business environment ruled by law, established and improved relevant mechanisms, and actively coordinated with functional departments to achieve substantial coordination on a “point-to-point” basis. In addition, Hainan High People’s Court has signed the *Several Opinions on Further Cooperation to Optimize the Handling of Financial Matters in Bankruptcy Cases* with Haikou

Central Sub-branch of the People's Bank of China and Hainan Office of China Banking and Insurance Regulatory Commission. This document provides detailed provisions regarding the bankruptcy administrators takeover of debtors' bank accounts, inquiries into debtors' account information, transfer of debtors' funds, activation or cancellation of debtors' abnormal accounts, and other bank settlement account transactions, thus helping bankruptcy administrators to better fulfill their duties.

(三) 破产审判工作机制创新

(III) Innovations in the bankruptcy trial mechanism

1. 创新开展预重整制度探索实践

1. Innovatively explore and implement the prepackaged bankruptcy system

预重整是一种企业挽救辅助性模式，不仅具有简化破产程序、提高审理效率、降低程序成本、化解各相关利益主体权益争议的法律效果，还具有鼓励当事人自治与市场化协商、主动自觉遵循法制的良好社会效果。在海南高院的指导下，海口中院于 2021 年 6 月出台了《破产案件预重整操作指引》，并于 2022 年 11 月终结海南新世通制药有限公司预重整程序，依法受理了海南海通印务有限公司对海南新世通制药有限公司提出的破产重整申请，成功实现预重整程序衔接破产重整程序。该案是全省首例预重整

转重整案例，是海南法院在破产重整领域进行的有益探索。

Prepackaged bankruptcy is a supportive model for rescuing enterprises. It has not only legal effects such as simplifying bankruptcy procedures, improving trial efficiency, reducing procedural costs, and resolving disputes over stakeholders' rights and interests, but also positive social effects of encouraging parties' autonomy, market-oriented negotiation and voluntary compliance with the rule of law. Under the guidance of Hainan High People's Court, Haikou Intermediate People's Court issued the *Guidelines for Prepackaged Bankruptcy in Bankruptcy Cases* in June 2021. In November 2022, Haikou Intermediate People's Court ended the prepackaged bankruptcy procedure of Hainan Xinshitong Pharmaceutical Co., Ltd., and accepted the bankruptcy reorganization application filed by Hainan Haitong Printing Co., Ltd. against Hainan Xinshitong Pharmaceutical Co., Ltd. in accordance with the law, successfully realizing the transition from prepackaged bankruptcy to bankruptcy reorganization. This is the first case of transition from prepackaged bankruptcy to bankruptcy reorganization in Hainan, and represents a beneficial exploration conducted by Hainan courts in the field of bankruptcy reorganization.

2.继续推广适用快速审理方式

2. Continue to promote the application of speedy trial

海南高院加强对各中基层法院的业务督促指导，适用快速审理方式，规范、精简债权申报、文书送达等程序时点，推动工作高效运行。2022 年新收 41 件破产案件中适用快速审方式审理 4 件，占比 10%，全部审结，平均审理时间 88 天。其中，海口粤海设备成套工程有限公司强制清算转破产清算案秉持“最短期限快速办理，并联事项同步办理，承认已有工作成果避免重复办理”的快速审理原则，用时 32 天即告终结。

Hainan High People's Court has strengthened its supervision and guidance over intermediate and primary courts on applying the speedy trial method, regulating and streamlining the procedures for declaration of creditors' rights and delivery of documents to improve trial efficiency. Among the 41 bankruptcy cases accepted in 2022, 4 cases were handled through the speedy trial method, accounting for 10% of the total. All these cases were concluded, with an average trial duration of 88 days. Especially, the case of change from involuntary liquidation to bankruptcy of Haikou Yuehai Complete Equipment Engineering Co., Ltd. was handled in line with the speedy trial principle of "speedy handling in the shortest time, simultaneous handling of related matters, and recognition of previous work results to avoid duplication of efforts", and was concluded in only 32 days.

3.强化市场救治功能，为困境企业纾困解难

3. Enhance the market-driven rescue function to address difficulties and problems of distressed enterprises

注重对破产企业的价值识别，积极运用重整制度帮助有挽救价值的企业重返市场。2022 年受理涉房地产行业重整案件三亚凤凰岛游轮港发展有限公司、五指山汇峰房地产发展有限公司等案件，重整程序正在有序推进。

Hainan High People's Court has focused on the recognition of value of bankrupt enterprises and made full use of the reorganization system to help viable businesses return to the market. In 2022, reorganization cases involving the real estate industry such as the case of Sanya Phoenix Cruise Terminal Development Co., Ltd. and the case of Wuzhishan Huifeng Real Estate Development Co., Ltd. were accepted, and their reorganization procedures were proceeding in an orderly manner.

4.加强破产法治宣传，传播破产保护理念

4. Strengthen the publicity of bankruptcy under the rule of law, and disseminate the idea of bankruptcy protection

立足审判，开展典型案例、发布破产审判白皮书等多方位宣传，为破产法治建设的顺利实施营造良好的市场环境和社会环境。海南高院全年共刊发、报送各类信息、动态 25 篇，破产审判白皮书 1 篇；海口破产法庭全年共刊发、报送各类信息、动态 22

篇，破产审判专报 12 篇，破产审判白皮书 1 篇。

Hainan High People's Court has strengthened the publicity of bankruptcy under the rule of law by publishing model cases and bankruptcy trial white papers to create a favorable market and social environment for the smooth implementation of bankruptcy under the rule of law. In 2022, Hainan High People's Court published and submitted 25 articles on various information and issues, as well as 1 bankruptcy trial white paper; Haikou Bankruptcy Tribunal published and submitted 22 articles on various information and issues, along with 12 special reports on bankruptcy trials and 1 bankruptcy trial white paper.

三、海南法院破产审判面临的困难

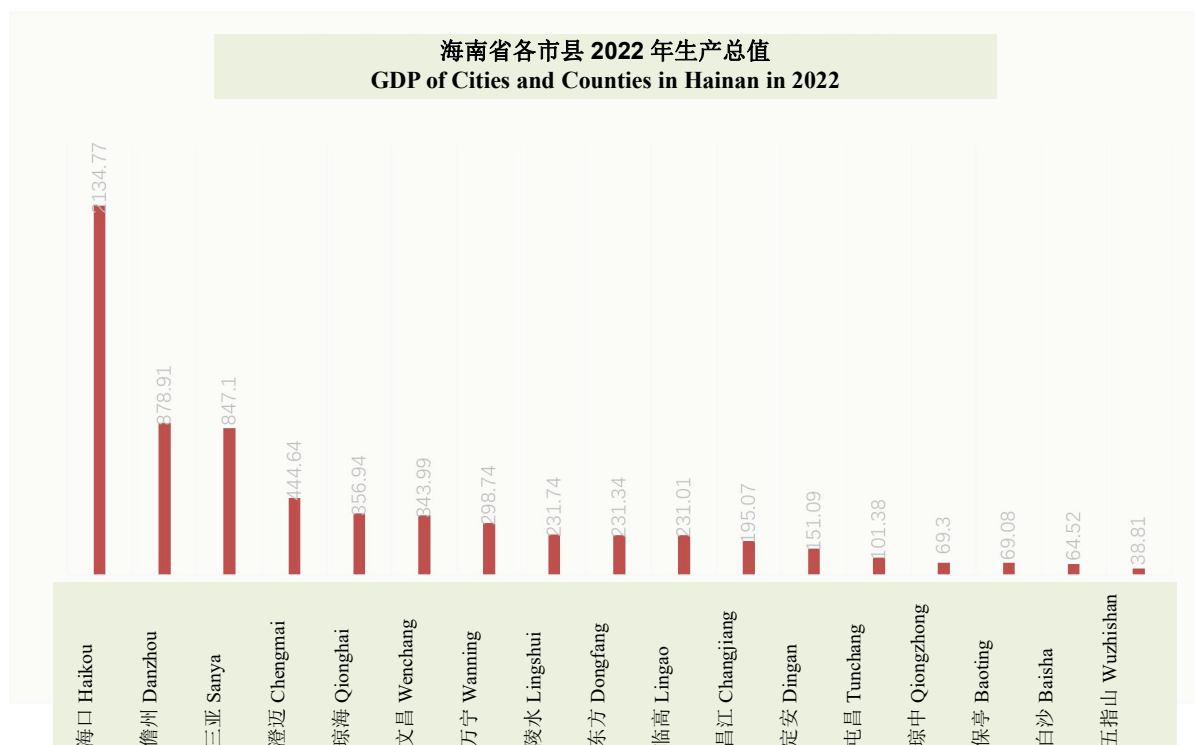
III. Difficulties Faced by Hainan Courts in Bankruptcy Trials

经国家统计局统一核算，海南虽受三亚“0801”新冠疫情影响，2022 年全省地区生产总值仍比 2021 年增长 0.2%，达到 6818.22 亿元，比 2020 年增长约 343 亿元。从产业看，第一产业比 2021 年增长 3.1%，增加值 1310.94 亿元，而第二产业与第三产业均比 2021 年同期分别下降 1.3%、0.2%，产业增加值分别为 1310.94 亿元和 4089.49 亿元。海南整体经济虽有所恢复，但受疫情冲击明显，海南各市县 GDP 排位也相应发生变化。同 2021 年相比，第一名仍是海口市，2134.77 亿元，增量 77.71 亿元，占全省 GDP

总量的 31.34%；儋州市则以 878.91 亿元超过三亚，排名第二，增量 47 亿元，占全省 GDP 总量的 12.9%；三亚因受疫情影响，以 847.1 亿元排名第三，增量 11.73 亿元，占全省 GDP 总量的 12.44%；第四名是澄迈县，444.64 亿元，增量 43.83 亿元，占全省 GDP 总量的 12.44%。最后一名五指山市，38.81 亿元，增量 1.05 亿元，占全省 GDP 总量的 0.57%。

The statistics of the National Bureau of Statistics show that despite the “0801” epidemic in Sanya, Hainan’s GDP still grew to RMB 681.822 billion in 2022, with an increase of 0.2% compared with 2021 and an increase of about RMB 34.3 billion compared with 2020 . In terms of industrial development, the GDP of the primary industry increased by 3.1% compared with 2021 , with an added value of RMB 131.094 billion, while that of both the secondary industry and the tertiary industry decreased by 1.3% and 0.2% respectively compared with 2021 with a value added of RMB 131.094 billion and RMB 408.949 billion respectively. Despite signs of economic recovery, the economic development in Hainan was significantly impacted by the epidemic, resulting in changes in the ranking of GDP among cities and counties in Hainan. Compared to the ranking in 2021, Haikou remained in the first place with a GDP of RMB 213.477 billion, which increased by RMB 7.771 billion and accounted for 31.34% of the provincial GDP. Danzhou surpassed

Sanya ranked second with a GDP of RMB 87.891 billion, which increased by RMB 4.7 billion and accounted for 12.9% of provincial GDP. Sanya ranked third due to the impact of the epidemic with a GDP of RMB 84.71 billion, which increased by RMB 1.173 billion and accounted for 12.44% of the provincial GDP. Chengmai ranked fourth with a GDP of RMB 44.464 billion, which increased by RMB 4.383 billion and accounted for 12.44% of the provincial GDP. Wuzhishan ranked last with a GDP of RMB 3.881 billion, which increased by RMB 105 million and accounted for 0.57% of the provincial GDP.



虽然海南各市生产总值均较上年有所增长，部分城市占比有

所变化，但整体上各市占全省总量比重并无太大变化，依然是省会城市海口市、旅游重镇三亚市的经济体量占全省总量将近五成。海南一中院辖区的东线城市经济体量 2077.48 亿元，占全省 GDP 总量的 30.5%；海南二中院辖区的西线城市经济体量 1751.94 亿元，占全省 GDP 总量的 25.72%。由此可以看出，海南省域内区域经济发展相对不平衡，仍存在很大的地区差异，海口一家独大，三亚、儋州紧跟其后，东线城市群优于西线城市群。区域发展的巨大差异给破产审判工作的均衡开展带来了严峻的挑战和单纯依靠司法力量难以化解的困难。海口市区域商事企业聚集，破产案件较多，专业法官经验丰富但人案矛盾突出、府院联动工作机制建设较为完善但区域覆盖面较窄；其他市县则面临着破产案件数量少、专业法官短缺、府院联动工作机制不畅等等难题。

Compared with last year, the cities in Hainan saw a growth in GDP and some of them saw a change in the proportion of GDP in 2022. However, the relative distribution of GDP among cities in Hainan had no significant change. Haikou, the provincial capital, and Sanya, a famous tourist city, still occupied nearly 50% of the provincial GDP. The eastern cities under the jurisdiction of Hainan First Intermediate People's Court had a combined GDP of RMB 207.748 billion, accounting for 30.5% of the provincial GDP. The western cities under the jurisdiction of Hainan Second Intermediate People's Court had a combined GDP of RMB 175.194 billion,

accounting for 25.72% of the provincial GDP. It can be seen that there were still significant regional differences in economic development in Hainan. Haikou had a decisive lead, followed by Sanya and Danzhou. The eastern cities outperformed the western cities. The significant differences in regional development have brought severe challenges to the balance of bankruptcy trials and difficulties that are difficult to resolve by relying solely on judicial power. Haikou has a large number of commercial enterprises, accompanied by many bankruptcy cases. In Haikou, the professional judges have rich experience, but there is a severe shortage of judges; there is a sound government-court collaboration mechanism, but its regional coverage is very limited. Other cities and counties are faced with difficulties such as few bankruptcy cases, insufficient professional judges, and poor government-court collaboration mechanisms.

(一) 破产审判质效仍不高

(I) The quality and efficiency of bankruptcy trials remained low

经统计，截止 2022 年 12 月底，全省法院未结破产类、强制清算类案件中，三年以上长期未结的破产案件和强制清算案件 53 件，五年以上长期未结的破产案件和强制清算案件 23 件，十年以上长期未结的破产案件 2 件，结合海南法院受理破产类、强制清算类案件总数来看，全省法院破产审判质效明显不高。长期

未结案件存量大利于海南自由贸易港营商环境建设，不能满足人民群众的司法获得感，影响海南法院司法公信力。未来，如何在现有破产审判资源的条件下结合破产审判工作实际，开展长期未结破产案件的专项清理工作，切实提升破产审判质效优化营商环境，将是海南法院必须解决的“必答题”。

According to statistics, by the end of December 2022, there were 53 bankruptcy and involuntary liquidation cases that had been pending for over three years, 23 bankruptcy and involuntary liquidation cases that had been pending for over five years, and 2 bankruptcy and involuntary liquidation cases that had been pending for over ten years. Based on the total number of bankruptcy and involuntary liquidation cases accepted by Hainan courts, it is evident that the quality and efficiency of bankruptcy trials accepted by Hainan courts were not high. The backlog of long-pending cases has hindered the construction of a favorable business environment in Hainan, resulted in difficulties in increasing people's sense of gain in justice, and affected the judicial credibility of Hainan courts. In the future, it is necessary for Hainan courts to consider how to improve the quality and efficiency of bankruptcy trials and optimize the business environment by handling long-pending bankruptcy cases based on the existing resources available for bankruptcy trials and the actuality of bankruptcy trials.

(二) “执转破”工作需要进一步推动落实

(II) The transfer from enforcement process to bankruptcy proceeding needs to be further promoted

经过2022年“执转破”专项工作推进，海南法院执行移送破产审查案件21件，受理21件，审结20件，裁定受理破产的10件。虽然，2022年整年全省法院受理的“执转破”案件数已接近过去四年合计受理的总量，有明显改观。但是，相对于2022年海南法院全省首执案件68005件、终本执行首执案件35705件的执行情况下，海南法院“执转破”工作仍有很大提升空间。整体上，海南法院在对破产审判作为与立案、审判、执行既相互衔接、又相对独立的一个重要环节的认识不够，对通过破产工作化解执行积案的促进功能把握不准，对“执转破”的审查确认标准以及相关程序掌握不足，导致海南法院在“执转破”工作中相较于发达地区法院有相当大的差距，仍是未来破产审判工作中的一个重大“堵点”。

After the “Enforcement process to Bankruptcy proceeding” special campaign in 2022, 21 enforcement cases of Hainan courts were transferred to bankruptcy petition, all of which were accepted. Among the 21 cases accepted, 20 cases were concluded, including 10 cases in which bankruptcy petitions were approved. It can be seen that the total number of “enforcement to bankruptcy” cases accepted by Hainan courts in 2022 is close to the total of such cases accepted in the past four years. However, in comparison to 68,005

cases of first enforcement and 35,705 cases where the enforcement procedure was suspended for first enforcement in Hainan courts in 2022, there is still ample room for improvement in the transfer from enforcement to bankruptcy. Overall, Hainan courts have insufficient understanding of bankruptcy trials as an important link closely connected to and independent from case filing, adjudication and enforcement, the role of bankruptcy procedures in resolving long-pending enforcement cases, as well as the standards for reviewing and confirming the change from enforcement to bankruptcy and related procedures. As a result, Hainan courts lag significantly behind courts in developed regions in terms of the transfer from enforcement to bankruptcy, which is a major sore point in future bankruptcy trials.

(三) 破产处置府院联动工作有待进一步提高

(III) Government-court collaboration in bankruptcy disposition needs to be further enhanced

目前，海南全省各中基层法院中只有海口破产法庭积极推进府院联动工作机制建设，与海口市政府及相关职能部门签署了一揽子政策文件，三亚中院、澄迈法院则与当地政府签署文件建立破产联席会议制度，而其他法院尚未与当地政府建立常态化破产处置府院联动协调工作机制，实践中主要还是“一事一议”、“因案协调”，制度化不足、系统性不够。另外，即使部分基层法院

已尝试建立府院联动机制，但也主要局限在政府与法院之间，管理人直接与政府相关职能部门，如税务、金融、市监等部门对接时仍存在很大障碍。究其原因，部分是一些地方政府对破产程序对于防范化解重大风险、促进不良市场主体高效退出市场等方面具有积极作用的认知不够，认为企业破产仅是法院审理范围内的事情，未能主动作为统筹协调；部分是一些地方法院对办理破产案件存在畏难心态，或囿于审判经验缺乏，对于部分破产案件没有政府的统一支持协调将难以推进的风险认识不足，未能积极主动与政府沟通，导致部分破产案件周期长、效率低。

Among all intermediate and primary courts in Hainan, only Haikou Bankruptcy Tribunal has actively promoted the construction of a government-court collaboration mechanism by signing a series of documents with Haikou Municipal Government and relevant functional departments. Sanya Intermediate People's Court and Chengmai Primary People's Court have signed agreements with local governments to establish a joint meeting system for bankruptcy. However, other courts have not established a government-court collaboration mechanism for bankruptcy disposition with local governments. In practice, these courts mainly rely on case-by-case coordination, lacking a uniform system. Even though some primary courts have attempted to establish a government-court collaboration mechanism, their focus remains primarily between the government

and the courts. There are still great obstacles in the direct interaction between bankruptcy administrators and relevant government departments such as taxation, finance, and market supervision. The reasons behind these obstacles are twofold. First, some local governments lack sufficient understanding of the positive role of bankruptcy procedures in preventing and eliminating major risks and in promoting the efficient exit of under-performing market entities. They believe that enterprise bankruptcy is solely within the purview of courts and fail to actively coordinate with courts. Second, some courts are afraid of difficulties or lack experience in handling bankruptcy cases. They are still not aware of the risks associated with certain bankruptcy cases that cannot be effectively handled without unified support from and coordination with the governments. Consequently, they do not actively engage in communication with the governments, resulting in long case cycles and low efficiency in some bankruptcy cases.

(四) 破产服务自贸港营商环境的功能有待进一步发挥

(IV) Work on the handling of enterprise bankruptcy in serving the business environment of Hainan Free Trade Port needs to be further improved

随着海口市、三亚市、儋州市作为评比城市参加国家发改委组织的中国营商环境评价工作，三地各级党委、政府和法院高度

重视企业破产法的贯彻实施工作，大力开展法律宣传工作，在上述地域内市场化、法治化破产理念得到一定传播，企业破产法治环境逐步改善。但是，海南中西部地区的破产法治观念情况仍不容乐观。部分地方党委政府对破产文化有抵触情绪，对于企业破产退出有很多顾虑；一些地方法院不愿意受理破产案件；市场主体对于企业破产法的认可度不高，对破产法律制度不甚了解，困境企业运用破产制度的能力以及运用破产方式实现市场出清的意愿与海口市的企业相比差距较大。

With the participation of Haikou, Sanya, and Danzhou in the business environment evaluation in China organized by the National Development and Reform Commission (NDRC), the Party committees, governments, and courts at all levels in these three cities have attached great importance to the implementation of the *Enterprise Bankruptcy Law of People's Republic of China*, and vigorously promoted law awareness publicity. As a result, the idea of market-oriented and law-based bankruptcy has been spread to certain extent and the legal environment for enterprise bankruptcy has been gradually improved in these cities. However, the publicity of law-based bankruptcy idea is still not enough in the central and western areas of Hainan. Some local Party committees and governments have reservations about bankruptcy culture and hesitations about the bankruptcy and exit of enterprises. Some local

courts are unwilling to accept bankruptcy cases. Market entities lack recognition of the *Enterprise Bankruptcy Law* and have limited understanding of the bankruptcy regime. Distressed enterprises in central and western areas significantly lag behind the enterprises in Haikou in terms of the ability to utilize the bankruptcy regime and the willingness to utilize the bankruptcy regime as a means of exit from market.

(五) 破产审判队伍专业化建设需要进一步提高

(V) The specialization of the bankruptcy adjudication team needs to be further improved

经过 2022 年审判专业机构改革建设，全省四家中级人民法院均设立了专门的破产审判机构办理破产案件。但是，破产案件不同于一般的民商事案件，要求法官具备有效执行法律的能力、监督破产程序的能力以及一定的商业知识，目前海南法院达到要求的破产法官人数太少。而区域发展不平衡又导致各级法院受理破产案件数量差异巨大，更进一步加剧了法院之间破产法官办案能力协调发展的困难。虽然海口中院已于 2021 年 12 月成立了破产法庭，但成立时间仅一年，通过案件集中管辖提高专业化水平、带动海南全省法院破产审判水平提高的作用短期内难以实现，审判组织机构建设离高质量发展的要求仍有较大差距。

After the reform of specialized adjudication organization in 2022, the four intermediate people's courts in Hainan have all established

a bankruptcy adjudication organization to handle bankruptcy cases. However, different from other civil and commercial cases, bankruptcy cases entail judges to have the ability to effectively enforce the law, the ability to oversee bankruptcy procedures, and business knowledge. Currently, there are too few judges in Hainan who meet these requirements. Additionally, the uneven regional development has resulted in significant disparities in the number of bankruptcy cases accepted by courts at all levels, further increasing the difficulty in coordinating the development of bankruptcy judges' case handling abilities among courts. In December 2021, Haikou Intermediate People's Court established a bankruptcy tribunal. However, the tribunal has run for only one year, so that it is difficult for the tribunal to realize the function of promoting specialization and improve the bankruptcy adjudication ability of Hainan courts through concentrated jurisdiction of cases in the short term. The construction of adjudication organizations is still far from the requirements of high-quality development.

(六) 管理人队伍建设与履职能力有待进一步增强

(VI) The building of bankruptcy administrator team and the ability of bankruptcy administrators to perform their duties need to be further enhanced

海南法院入册管理人已有 60 家中介机构, 包括律师事务所、

会计师事务所、破产清算类机构，地域覆盖全国十二个省级区域。但是，管理人结构单一，仅涵盖机构管理人，尚未引进个人管理人；机构管理人中缺乏熟悉企业经营管理和资产管理的专业机构，很大程度上影响了海南法院利用破产重整制度拯救有价值的危困企业的能效。而且，由于尚未成立全省统一的破产管理人协会，协会的服务功能缺位，导致管理人之间的业务交流以及执业培训没有进行，管理人之间的履职水平差距巨大，个案审理质效不均。同时，全省尚未制定统一的管理人行为规范和自律规则，管理人的监督和考核的相关制度也尚未建立，管理人队伍的建设和管理仍然任重道远。

There are currently 60 intermediary agencies registered as bankruptcy administrators by Hainan courts, including law firms, accounting firms and bankruptcy liquidation agencies, which cover twelve provincial regions nationwide. However, Hainan has a single structure of bankruptcy administrators, comprising only institutional bankruptcy administrators, but no individual bankruptcy administrators. Among the institutional bankruptcy administrators, there are few professional agencies that are familiar with enterprise management and asset management. This significantly affects the efficiency and ability of Hainan courts in utilizing the bankruptcy reorganization system to rescue valuable distressed companies. Additionally, the absence of a provincial association of bankruptcy

administrators hinders the business communication and professional training among bankruptcy administrators, and results in significant discrepancy in the ability of bankruptcy administrators to perform their duties, thus leading to imbalance in the efficiency of case handling. Further, Hainan has not yet formulated unified codes of conduct and self-disciplinary rules for bankruptcy administrators, and has not yet established relevant systems for supervision and assessment of them. As such, Hainan courts still face arduous tasks in the construction and management of the bankruptcy administrator team.

四、下一步工作计划

IV. The Next Work Plan

经过 2022 年努力, 全省法院破产审判工作取得了一定成效, 但是, 与海南建设自由贸易港法治化、便利化营商环境的要求相比, 差距依然很大。2023 年, 海南法院将认真落实好习近平总书记关于“法治建设既要抓末端、治己病, 更要抓前端, 治未病”重要指示精神, 把能动司法贯穿破产审判全过程, 补短板, 强弱项, 找准破产审判工作与海南自由贸易港法治化便利化市场化营商环境建设的契合点, 围绕全面深化改革开放试验区建设及营商环境世界一流的自由贸易港建设工作大局, 建强专业队伍、优化办案程序、发挥管理人效能, 凝聚政府协同合力, 充分发挥破产制度作用, 用实际行动践行“先行先试、风险可控、分步推进、

突出特色”司法理念，开启海南法院破产审判工作新征程。

Hainan courts have made some achievements in bankruptcy trials in 2022 through unremitting efforts. However, there is long distance to establish a law-based and convenient business environment in Hainan. In 2023, Hainan courts will earnestly put into practice Xi Jinping’s important guiding principle that “the construction of the rule of law should focus not only on resolving existing problems, but also on preventing potential risks”; integrate judicial activity throughout the process of bankruptcy trials to improve weak links; identify the points of convergence and coordination between bankruptcy trials and the construction of a law-based, convenient and market-oriented business environment in Hainan Free Trade Port; align their work with the overall goal of deepening the reform and construction of pilot zone and building a world-class business environment in Hainan strengthen the professional team, optimize the case handling procedures, enhance the efficiency of administrators, promote the coordination with the government, and give full play to the role of the bankruptcy regime; implement the judicial idea of “playing a leading and exploratory role, controlling risks, advancing step by step, and highlighting distinctive features” through practical actions. This will mark the beginning of a new journey of Hainan courts in bankruptcy trials.

（一）持续优化破产审判工作机制

(I) Continue to optimize the bankruptcy trial mechanism

1.推进破产审判机制创新

1. Promote the innovation in bankruptcy trial mechanism

（1）探索强制清算案件和破产案件集中管辖。针对现有全省破产审判布局存在的短板和不足，在全省法院试行强制清算案件和破产案件集中由中级人民法院统一管辖，优化破产审判资源。

(1) We will make an attempt on centralized jurisdiction of compulsory liquidation cases and bankruptcy cases. In response to the deficiencies and shortcomings in the current provincial bankruptcy trial layout, we will try to realize unified jurisdiction of compulsory liquidation cases and bankruptcy cases by intermediate people's courts, striving to optimize the bankruptcy trial resources.

（2）探索推广预重整机制。根据《海南自由贸易港企业破产程序条例》规定，结合海口破产法庭受理的全省首例海南新世通制药有限公司破产预重整案，积极构建细化庭外重组与庭内重整衔接操作指引，降低重整的程序成本。

(2) We will explore and promote the prepackaged bankruptcy mechanism. In accordance with the *Regulations on Bankruptcy Procedures for Enterprises in Hainan Free Trade Port*, and in combination with the first prepackaged bankruptcy case involving Hainan Xinshitong Pharmaceutical Co., Ltd. accepted by Haikou

Bankruptcy Tribunal, we will develop detailed guidelines for connecting out-of-court reorganization with in-court reorganization, so as to reduce the procedural costs of reorganization.

(3) 探索试点“审转破”制度。为防止程序空转，实现审判程序与破产程序的无缝对接与良性互动，依托海口破产法庭，试点探索民商事案件审判转破产衔接机制，对民事案件审判程序中发现的具备破产原因的企业移送破产程序建章立制。

(3) We will explore and pilot the “trial proceeding-to-bankruptcy proceeding” system. In order to avoid low efficiency of procedures and achieve seamless integration and positive interaction between the trial and bankruptcy procedures, we will, relying on Haikou Bankruptcy Tribunal, pilot and explore the mechanism for transition from trials of civil and commercial cases to the bankruptcy procedures, and establish a system for transferring enterprises with bankruptcy causes found in civil case trials to the bankruptcy procedures.

2.提升破产审判绩效

2. Improve the performance of bankruptcy adjudications

(1) 进一步提高破产案件审判效率。一是持续推进简易破产案件快速审理机制，实现简案快审、繁案精审，降低破产程序成本。二是完善海南法院智慧破产审判平台建设，推动与全国企业破产重整案件信息网对接，加强与相关政府职能部门信息共享。

(1) We will further improve the trial efficiency of bankruptcy cases. First, we will continuously promote the speedy trial mechanism for simple bankruptcy cases, achieve quick trial of simple cases and comprehensive trial of complicated cases, and reduce the cost of bankruptcy procedures. Second, we will enhance the construction of an intelligent bankruptcy trial platform for Hainan courts, promote its integration with the national enterprise bankruptcy information disclosure platform, and strengthen information sharing with relevant government departments.

(2) 努力提高破产程序清偿率。一是积极适用重整与和解程序，维护债务人持续经营能力和企业核心运营资产完整性，最大限度实现破产企业整体财产保值增值。二是完善网络拍卖的配套措施，形成“管理人+辅助拍卖服务+网络平台”的破产网拍模式，努力实现破产财产处置价值最大化，切实提高破产债权清偿率。

(2) We will make efforts to improve the bankruptcy discharge rate. First, we will actively adopt the reorganization and reconciliation procedures to maintain the debtors' ability of sustainable operation and the integrity of core operating assets, and preserve or increase the value of overall properties of bankrupt enterprises to the greatest extent. Second, we will improve the supporting measures for online auctions, and establish an online bankruptcy auction model integrating "administrators + auxiliary auction services + online

platforms”, striving to maximize the value of bankruptcy property disposition, and effectively improve the bankruptcy discharge rate.

(3) 提升执转破案件审判工作质效。持续推进执行与破产良性互动, 严格落实“定期移送、及时受理、快速审结”工作机制。

(3) We will improve the trial quality and efficiency of “enforcement-to-bankruptcy” cases. Continue to promote the benign interaction between enforcement and bankruptcy, and strictly implement the working mechanism of “regular transfer, timely acceptance and rapid conclusion”.

3.加强专业化队伍建设

3. Strengthen the construction of a specialized team

(1) 推进破产审判专业化建设。一是审判组织的专业化, 加强破产法官和辅助人员配置, 配齐配强审判队伍, 定期进行破产业务指导和培训。二是裁判标准的统一化, 健全审判情况分析通报和反馈机制, 强化典型案例类案指导, 定期发布年度破产审判典型案例。

(1) we will promote the specialization of bankruptcy trials. First, specialized trial organizations: enhance the allocation of bankruptcy judges and auxiliary personnel, strengthen the trial team, and regularly provide bankruptcy guidance and training. Second, unified judgment standards: improve the trial analysis, reporting and feedback mechanism, strengthen guidance on typical cases, and

regularly publish annual model cases.

(2) 完善破产法官绩效考核制度。制定全省范围内破产审判绩效考核标准,积极探索能够客观反映破产案件工作量的考评标准,形成可比较和可量化的考核标准。

(2) We will improve the performance evaluation system for bankruptcy judges. We will formulate performance evaluation standards for bankruptcy trials applicable across the province, actively explore evaluation standards that can objectively reflect the workload of bankruptcy cases, and form comparable and quantifiable evaluation standards.

(二) 完善破产工作配套措施建设

(II) Improve the supporting measures for bankruptcy procedures

1.健全府院联动机制

1. Improve the government-court coordination mechanism

(1) 建立常态化的企业破产处置工作府院联动机制,设置联合会议机制、联签文件机制等具体工作制度,加强政府与人民法院之间破产工作信息共享,强化沟通协作,进一步解决破产程序中涉及企业注销、信用修复、企业税收、职工权益、社会稳定等难题。

(1) We will establish a normalized government-court coordination mechanism for bankruptcy disposal, set up specific working systems

such as joint meeting mechanism and countersigning mechanism, strengthen the sharing of bankruptcy information between the government and courts, strengthen communication and cooperation, and further solve problems related to enterprise cancellation, credit repair, corporate taxation, employees' rights and interests and social stability in bankruptcy procedures.

(2) 积极推动省政府落实《海南自由贸易港企业破产程序条例》，设立专门的省级破产事务管理机构，管理破产事务，预防破产欺诈，加强破产事务统筹协调推进。

(2) We will actively promote the implementation of the *Regulations on Bankruptcy Procedures for Enterprises in Hainan Free Trade Port* by the provincial government, and set up a provincial bankruptcy management agency to manage bankruptcy affairs, prevent bankruptcy fraud, and strengthen the overall coordination of bankruptcy affairs.

2.持续完善管理人制度

2. Continuously improve the system of bankruptcy administrator

(1) 健全破产管理人管理机制，制定《管理人考核办法》《管理人工作规范》等管理人工作规范性文件，加大对管理人工作业务的指导和支持力度。

(1) We will improve the management mechanism for bankruptcy

administrators, and formulate normative documents such as the *Assessment Measures for Bankruptcy Administrators* and the *Code of Conduct for Bankruptcy Administrators* to enhance the guidance and support for the work of bankruptcy administrators.

(2) 持续完善管理人指定和选任制度，形成以法院摇号指定选任为原则，债务人、债权人协商一致推荐选任与公开竞争选任为补充的双轨模式。

(2) We will continuously improve the system for appointment and selection of bankruptcy administrators, and form a dual-track model that combines designation through court lottery with consensus-based recommendation by debtors and creditors and open competition.

(3) 推动成立破产管理人协会，加强省内外管理人之间的工作交流，进一步完善管理人的薪酬制度和执业规范与监督，提升管理人履职能力和水平。

(3) We will promote the establishment of an association of bankruptcy administrators to facilitate communication and collaboration among administrators within and outside of Hainan, further improve the salary system, professional norms, and supervision of bankruptcy administrators, and enhance the ability of bankruptcy administrators to perform their duties.

3.健全破产经费保障机制

3. Improve the system of bankruptcy expenses assistance

严格落实《海南省高级人民法院破产费用保障资金管理和使用办法（试行）》，依规审核管理人提交的破产费用保障资金补偿申请资料，优化审批流程，进一步压缩向管理人支付破产费用的时限。

We will strictly implement the *Measures of Hainan High People's Court for Management and Use of Bankruptcy Cost Assurance Funds (for Trial Implementation)*, review the applications for bankruptcy cost assurance funds submitted by administrators according to the Measures, optimize the approval process, and further shorten the time limit for paying bankruptcy costs to bankruptcy administrators.

（三）持续推进清理破产积案

(III) Continue to conclude long-pending bankruptcy cases

认真贯彻张军院长在《全国法院学习贯彻全国两会精神电视电话会议》上的重要讲话精神，坚持从严管理原则，压实主体责任，全力做好解决当前海南法院长期未结破产案件的积案清理工作，通过开展针对性业务指导、加强条线沟通协调等方式，实现对长期未结破产案件“控制增量、消化存量”的工作目标以及全省法院 10 年以上未结破产案件清零目标。

We will earnestly put into practice the guiding principles of the important speech made by President Zhang Jun at the *National*

Teleconference on Studying and Implementing the Guiding Principles of the National People's Congress and the Chinese People's Political Consultative Conference, adhere to the principle of strict management, strengthen the fulfillment of enterprises' primary responsibility, make efforts to conclude long-pending bankruptcy cases of Hainan courts, and achieve the goals of "controlling the increment of long-pending cases and reducing the existing long-pending cases" and clearing the bankruptcy cases pending for more than 10 years by providing targeted professional guidance and strengthening communication and coordination.

(四) 开展立法理论调研

(IV) Carry out theoretical research on legislation

(1) 探索推行小微企业适用简易破产程序。加强个人破产机制与小微企业简易破产程序相互配合协调的理论研究，高效低成本地解决小微企业的破产与挽救问题。

(1) We will explore and promote simplified bankruptcy procedures for small and micro enterprises. We will strengthen the theoretical research on coordinating and integrating the personal bankruptcy mechanism with simplified bankruptcy procedures for small and micro enterprises, aiming to address the issues of bankruptcy and rescue for small and micro enterprises in an efficient and cost-effective manner.

(2) 积极探索跨境破产以及个人破产制度，推进跨境破产司法协作。加强跨境破产以及个人债务集中清理模式理论研究、案例交流，探索建立海南、香港、澳门区域内破产信息共享制度、破产效力的承认与执行制度、管理人跨地域执业制度等。

(2) We will actively explore cross-border bankruptcy and personal bankruptcy systems, and promote judicial cooperation in cross-border bankruptcy cases. We will Strengthen theoretical research and case exchange on cross-border bankruptcy and centralized liquidation of personal debts, and establish feasible system such as system for bankruptcy information sharing among Hainan, Hong Kong and Macao, system for recognition and enforcement of bankruptcy, and system for cross-regional practice of administrators.