

# **THE LAW OF UKRAINE**

## **on Restoring Debtor Solvency or Declaring a Debtor Bankrupt**

This Law establishes the conditions and procedure for restoration of debtor's solvency or declaring a debtor bankrupt and application of the liquidation procedure, and full or partial satisfaction of creditors' claims.

### **Section I**

#### **GENERAL PROVISIONS**

##### **Article 1. Definitions**

For purposes of this Law, the terms are used in the following meanings:

insolvency - inability of an economic agent to fulfill the monetary obligations to creditors after the prescribed period of payment, including payment of wages, and to fulfill obligations to pay insurance contributions for compulsory state pension insurance and other types of compulsory state social security, taxes and duties (mandatory payments) other than through the restoration of its solvency;

debtor – an economic agent (legal entity or individual entrepreneur) unable to meet its monetary obligations to creditors, including obligations to pay insurance contributions for compulsory state pension insurance and other types of compulsory state social security, taxes and duties (mandatory payments), within three months after the prescribed period of payment;

bankruptcy - inability of an economic agent, recognized by the commercial court, to restore its paying capacity and to satisfy creditors' claims, recognized by the commercial court, made possible only through the liquidation procedure;

subject of bankruptcy (hereinafter - the bankrupt) – a debtor whose inability to fulfill its monetary obligations has been recognized by the commercial court; separated structural units of a legal entity (branches, departments, etc.) can not be the subjects of bankruptcy;

creditor - a natural or legal person that has documented claims, confirmed through the established procedure, for debtor's monetary obligations for payment of arrears of wages to the employees of the debtor, and the State Tax Service and other government agencies that monitor the accuracy and timeliness of insurance payments to compulsory state pension insurance and other types of compulsory social security, taxes and duties (mandatory payments), bankruptcy creditor – a creditor having claims to the debtor that arose before the proceedings in the bankruptcy case and whose claims are not secured by the collateral property of the debtor, bankruptcy creditors are also creditors, whose claims to the debtor arose from succession subject to the emergence of such claims prior to the proceedings in the bankruptcy case; current creditors - creditors having claims to the debtor that arose after the proceedings in the bankruptcy case;

the monetary obligations - the debtor's commitment to pay the creditor a certain sum of money under the contract and on other grounds stipulated by the legislation of Ukraine; the monetary obligations of the debtor does not include a forfeit (fines and penalties) determined (credited) prior to the date of appeal to the commercial court, as well as commitments resulting from harm to life and health of citizens, the obligation of paying royalties, commitments before the founders (participants) of the legal entity - debtor arising from such participation, composition and size of financial liabilities, including the amount of debt for the delivered goods, labor and services rendered, the amount of loans including the interest that the debtor must pay is determined on the

day of filing the application to the commercial court to initiate the bankruptcy proceedings, unless otherwise provided herein;

indisputable claims of creditors - creditors' claims recognized by the debtor, other creditors' claims, confirmed by the administrative or payment documents, through which, according to the legislation, the funds are written-off the debtor's accounts;

pretrial restructuring - a system of measures to restore the solvency of the debtor, which may be performed by the property owner (the subject of public property management) the debtor, the investor, to prevent the debtor's bankruptcy through reorganization, organizational and economic, administrative, investment, technical, financial and economic, and legal actions under the legislation before the proceedings in the bankruptcy case;

management of debtor's property - a system of measures for supervision and control over the management and disposal of debtor's property to ensure preservation and efficient use of debtor's assets and for the analysis of his financial situation;

property manager - an individual acting under the ruling of the commercial court or by the appointment of the government authority on bankruptcy, who according to this Law has authority for supervision and control over the management and disposal of debtor's property during the proceedings in the bankruptcy case in the manner prescribed by this Law;

restructuring - a system of measures undertaken during the bankruptcy case proceedings to prevent the debtor's declaring bankrupt and his liquidation, aimed at the improvement of financial and economic situation of the debtor, and satisfaction in full or in part of creditors' claims by restructuring of the enterprise, debt and equity and (or) changes in legal, organizational and production structure of the debtor;

company reorganization - the implementation of organizational, financial, economic, legal and technical measures to reorganize the company, particularly by its separation with transition of debt liabilities to the legal entity that is not subject to restructuring, if provided by the reorganization plan, change of the type of ownership, management, organizational and legal form that will facilitate company's financial recovery, increase in the volume of competitive products, increase in production efficiency and full or partial satisfaction of creditors' claims;

restructuring manager - an individual who, under the decision of the commercial court or by the appointment of the government authority on bankruptcy, organizes restructuring of the debtor;

liquidation - termination of the economic agent, recognized by the commercial court as bankrupt, aiming at implementation of measures to meet the creditors' claims, recognized by the court, by selling its property;

receiver - a person who, under the decision of the commercial court or by the appointment of the government authority on bankruptcy organizes the liquidation procedure for the debtor, declared bankrupt, and provides for fulfillment of creditors' claims, confirmed by the court in the manner established by this Law;

settlement agreement - an agreement between the debtor and creditor (a group of creditors) on deferral and (or) installment of payments or mutual termination of commitments by the parties (hereinafter - the absolution of debts);

official printed media - the newspaper "Holos Ukrainy" (Voice of Ukraine) and "Uryadovyi Kuryer" (Governmental Courier);

representative of the debtor's employees - a person authorized by the general meeting (conference), consisting of at least two-thirds of the entire staff of the debtor or a relevant decision by the primary trade union organization of the debtor (and in the presence of several primary

organizations – by their joint decision) to represent their interests during proceedings in the bankruptcy case in the advisory capacity;

parties in the bankruptcy case - creditors, the debtor (bankrupt);

parties in the bankruptcy case - the parties, trustee in bankruptcy (property manager, restructuring manager, receiver), the debtor's property owner (the subject of public property management), and in the cases envisaged by this Law - other persons participating in the bankruptcy case proceedings - the state authority on bankruptcy, the State Property Fund of Ukraine, a representative of local self-government authority, a representative of the debtor's employees, shareholders or members of economic society;

stakeholders against the debtor - legal entity established with the debtor's participation, legal entity that controls the debtor, a legal entity controlled by the debtor, legal entity to which the debtor is under control of a third party, the owners (participants, shareholders) of the debtor, the debtor's manager, persons that are part of the debtor's management, the chief accountant (accountant) of the debtor, including those dismissed one year prior to the bring proceedings in the bankruptcy case, and persons who are in the family relationship with these individuals and the entrepreneur (individual) - the debtor, such as: spouses and their children, parents, brothers, sisters and grandchildren, and persons that have valid grounds to be considered stakeholders; for the purposes of this Law the interested individuals regarding the restructuring manager or creditors are the same persons as the ones of the debtor;

moratorium on satisfaction of creditors' claims - the suspension of debtor's monetary obligations and obligations to pay taxes and duties (mandatory payments), other property obligations which arose prior to the adoption of the statement on initiation of proceedings in the bankruptcy case, regardless of timing of the onset of the obligations under them, and suspension of measures to ensure that these commitments and obligations to pay taxes and duties (mandatory payments) are applied prior to the decision to impose moratorium;

paid creditor claims - satisfied creditor claims, claims where agreement has been reached on termination, including replacement of liability or otherwise termination, and other claims, which under this Law deem satisfied;

significant agreements – an agreement or a totality of agreements concluded within one calendar months, the aggregate result of which shall be disposition of property the debtor, the book value of which exceeds one percent of the book value assets of the debtor on the date of such agreements;

interest attracting agreements - agreements where the interested persons of the debtor, creditors or restructuring manager are recognized as parties;

agent of the founder (owner, participant) of the company, shareholders, members of companies with limited or additional liability - a person authorized by the general meeting of members who own more than a half of the registered capital of the company or an enterprise, to represent their interests during the proceedings in the bankruptcy case having advisory capacity;

foreign proceedings - proceedings in the bankruptcy case, made in a foreign country under the laws of that state;

foreign court - state or other authorized agency of a foreign state, competent to carry out bankruptcy proceedings;

permanent representation - a fixed place of activity at the territory of another state through which the economic activity of the economic agent is fully or partially conducted;

judicial assistance - taking measures by the commercial court or a foreign court to protect the assets of the debtor or the creditors' interests.



## **Article 2. Legislation governing the bankruptcy case proceedings**

1. Proceedings in bankruptcy cases is governed by this Law, the Commercial Procedural Code of Ukraine, and other legislative acts of Ukraine.

2. Legislation on restoring the debtor's solvency or declaring bankrupt during the court review of the case of declaring the bank insolvent (bankrupt) is applied with regard to the Law of Ukraine "On Banks and Banking".

3. Proceedings in bankruptcy cases for certain categories of economic agents is regulated in view of features provided by Section VI of this Law.

4. The provisions of this Law apply to legal entities that are non-profit organizations and do not apply to legal entities – state-owned enterprises.

5. The provisions of this Law shall not apply to legal entities - enterprises that are objects of communal property rights if local government decisions in this regard were made at the plenary meeting of the relevant council.

6. Proceedings in bankruptcy cases involving entrepreneurial entities that conduct activities related to state secrets shall be regulated with due account for the special features envisaged by the Law of Ukraine “On State Secrets”.

7. Proceedings in bankruptcy cases involving non-resident lenders are regulated by this Law, unless otherwise provided by the international treaties of Ukraine ratified by the Verkhovna Rada (the Parliament) of Ukraine.

8. The procedure of execution of foreign court decisions in Ukraine in bankruptcy cases is determined by the relevant international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine.

In the absence of international treaties of Ukraine, foreign court decisions in bankruptcy cases are mutually recognized in Ukraine, unless otherwise is provided by law.

## **Article 3. State authority on bankruptcy and its powers**

1. The state policy to prevent bankruptcy, and ensuring the implementation of procedures of debtor's solvency restoration or declaring him bankrupt for government enterprises and enterprises whose statutory fund has a share of state ownership exceeding twenty five percent, economic agents of other types of ownership in the cases provided this Law, is exercised by the state authority on bankruptcy, acting under the provisions approved in the prescribed manner.

2. The state authority on bankruptcy:

facilitates the creation of organizational, economic and other conditions necessary for the recovery of the debtor's solvency or declaring bankruptcy, supervises bankruptcy procedures of state enterprises and enterprises whose statutory fund has a share of state ownership exceeding twenty five percent;

establishes the procedure for appointment of trustees to perform the competence of property managers, restructuring managers, receivers of state-owned enterprises or enterprises whose statutory fund has share of state ownership exceeding twenty five percent and enterprises that conduct activities related to state secrets, and also the procedure of termination of competence of such arbitration managers;

establishes the procedure for appointment of property managers for the execution of powers of managers of state enterprises or enterprises whose statutory fund has a share of state ownership exceeding twenty five percent;

appoints trustees to carry out powers of property managers, restructuring managers, receivers of state-owned enterprises, or enterprises whose statutory fund has share of state ownership exceeding twenty five percent, and terminates the authority of such trustees,

appoints in cases prescribed by this law the property managers to perform duties of managers of state enterprises or enterprises whose statutory fund has a share of state ownership exceeding twenty five percent;

organizes a system of training for the trustees;

provides licensing for economic activities of the trustees (property managers, restructuring managers, receivers);

administers a Unified database of businesses for which proceedings in the bankruptcy case were initiated, establishes the format of submission of information required for the above database by the trustees;

establishes procedures for the analysis of financial and economic state of public enterprises and enterprises which statutory fund has a share of state ownership exceeding twenty five percent, and organizes its implementation to identify signs of false bankruptcy, forced bankruptcy, or concealment of a sustainable financial insolvency;

establishes the format of reorganization plans, settlement agreements, lists of liquidation masses in bankruptcy case proceedings;

approves plans of reorganization, the settlement agreement, the liquidation masses of state enterprises or enterprises which statutory fund has a share of state ownership exceeding twenty five percent;

prepares conclusions about identified signs of hidden or false bankruptcy, forced bankruptcy of state enterprises or enterprises which statutory fund has a share of state ownership exceeding twenty five percent to requests made by courts, prosecution or other authorized bodies;

prepares and submits standard documents for implementation of bankruptcy procedures, methodological recommendations to the Cabinet of Ministers of Ukraine for approval;

exercises other powers provided by the law.

#### **Article 4. Trustee**

1. Trustee (property manager, restructuring manager, receiver) - an individual holding a license issued in accordance with legislation, and acting under the ruling of the commercial court or appointment for exercising of the appropriate powers by a public authority on bankruptcy.

Foreign trustee - a person appointed by a foreign court in foreign proceeding for a certain time and empowered to manage economic activities or reorganization or liquidation of the debtor and to perform actions in other states.

At the enterprises that conduct activities related to state secrets the trustee shall have the clearance for access to state secrets or shall receive such clearance in accordance with the procedure established by legislation.

2. Property manager, restructuring manager and the receiver can not assign the trustees from among the following persons:

those considered to be interested under this Law;

those who previously managed the debtor - legal entity, except if at least three years have passed from the date of dismissal from management position of the said debtor, unless otherwise provided herein;

those deprived of the right to conduct business, duties of the trustee or taking leadership positions;

persons not granted clearance for access to state secrets or whose clearance granted earlier was revoked because of violations of the legislation in the field of state secrets protection, if such clearance is necessary to exercise duties established by this Law, in case when such non-granting or revocation occurred less than a year ago;

those having a criminal record for committing profit-motivated crimes.

Pending the appointment of a property manager, restructuring manager, or receiver the trustee shall submit the declaration to the commercial court stating that he does not belong to the individuals identified in this section.

3. Trustee has the right for the following:

request and obtain the necessary documents to exercise his authority, copies, information from enterprises, institutions, organizations, associations, and from the citizens - with their consent;

request and receive information from the state registers about the debtor's property, including the pledged one;

apply to the commercial court in the cases stipulated by this Law and the Economic Procedure Code of Ukraine, including petitions about removal of an attachment from the property of the debtor (bankrupt);

convene meetings and creditor committee and participate in them in an advisory capacity;

receive compensation in the amount and manner prescribed by this Law;

attract, on a contractual basis, to enforce its authority other specialized organizations and persons with payment for their activities at the cost of the debtor, unless otherwise is stipulated in this Law or in the agreement with creditors;

apply to the commercial court for early termination of their duties;

perform other actions in accordance with the law.

4. The receiver must:

carry out his work according to this Law and other regulations and license conditions;

implement measures to protect the debtor's property;

analyze financial, economic and investment activities of the debtor, its market status;

in the manner prescribed by law, provide the state authority on bankruptcy with information necessary for the maintenance of a Unified database of companies where the proceedings in bankruptcy have been initiated;

provide unconditional receiving of mail at the residence address indicated in the license; take actions to ensure protection of state secrets in accordance with the requirements established by legislation;

submit information and documentation regarding the activity of the trustee (property manager, restructuring manager, receiver) at the request of the state authority on bankruptcy using the procedure and terms stipulated by the law;

within ten working days, submit in due course to the state authority on bankruptcy the notice of change of information specified in the documents accompanying the license application;

ensure conditions for a state authority on bankruptcy to conduct verification of the trustee's fulfillment of license conditions; fulfill in the set terms the task to eliminate violations of license conditions and provide information on elimination of violations;

perform other duties stipulated in this Law.

5. When exercising his rights and duties the receiver is obliged to act fairly and reasonably, taking into account the interests of the debtor and its creditors.

6. In the event of damage to the debtor or creditors activities, the trustee's activity is subject to compulsory insurance. The procedure of compulsory insurance of the trustee's activity is determined by the law.

7. In the event of failure or improper performance of duties by the trustee (property manager, restructuring manger, receiver) he may be removed from office by the ruling of the commercial court or by the state authority on bankruptcy in cases specified by this Law, made on the basis of an appeal after the meeting of creditors, the creditors committee, the owner of the debtor's property (the subject of state property management) or the state authority on bankruptcy, unless otherwise stipulated in this Law. The ruling of the court, which found that non-fulfillment or improper fulfillment of the responsibilities of the trustee, had inflicted substantial damage to the debtor or the creditors or caused violation of Ukrainian legislation in the field of protection of state secrets as a result of fulfillment of responsibilities of the trustee shall be the ground for revocation of the trustee's license.

On the failure or improper performance of duties assigned to the trustee, the commercial court may make a ruling, which is submitted to the state authority on bankruptcy.

8. Payments for services, reimbursement of trustee's costs (property managers, restructuring manger, and receiver) in connection with the performance of his duties are carried out in the manner prescribed by this Law using the funds received from the sale of the debtor's property, his business activity or at the creditors' expense.

Payments for trustee's services (property managers, restructuring manger, and receiver) for the period from the date of the ruling of the commercial court on opening of proceedings in the bankruptcy case and until the day of the first meeting of the creditors committee, which determines the size of compensation and reimbursement of trustee's costs is organized by the creditor or by the debtor, who requested to initiate the proceedings in the bankruptcy case in the amount of two minimum wages per every month in office.

9. Creditors may create a fund to pay for services, provide reimbursement and payment of bonuses to the trustee (property managers, restructuring manger, and receiver). Establishment of the fund and use of its resources is determined by the decision of the creditors committee and approved by the commercial court.

10. Payments for trustee's services (property managers, restructuring manger, and receiver) for each month in office is set and paid in the amount specified by the creditors committee and approved by the commercial court, unless otherwise stipulated in this Law, of at least two minimum wages and no more than the average wage of the debtor's manager for the last twelve months of work prior to initiation of proceedings in the bankruptcy case.

11. Creditors at their own expense have the right to install and pay the trustee additional compensation as a result of his activity, the amount of which shall be approved by the commercial court.

12. Report on payment of fees, recovery of the costs of the trustee are approved by the decision of the creditors committee and the commercial court, which may be appealed in due course.

13. Trustee's life and health may be insured at the creditors' expense in accordance with the law.

14. In case of inflicting damage or losses to the debtor, creditors or other persons during exercising of the trustee's powers in the course of bankruptcy proceedings, the activity of the trustee shall be subject to insuring.

Insurable events under a contract of insurance of responsibility of the trustee shall be the confirmed ruling of the court that has come into force, infliction of damage, losses to the debtor, creditors or other persons as a result of guilty activity of the trustee in the course of exercising of powers of administrator of estate, reorganization manager, receiver, or temporary exercising of powers of the debtor's manager.

15. Trustees may unite in their self-regulated organizations based on their membership in order to create and maintain high professional activity standards in accordance with legislation and founding documents of such self-regulated organizations.

#### **Article 5. Measures to prevent debtor's bankruptcy and extrajudicial procedures**

1. Founders (participants) the debtor - legal entity, the owner of the property, central executive authorities, local self-government authorities within their powers must take timely measures to prevent the bankruptcy of the debtor enterprise.

2. The owner of the debtor's property - public or private enterprise, the founders (participants) of the debtor - legal entity, creditors of the debtor, other persons within the measures of activities to prevent the bankruptcy of the debtor may be given financial assistance in the amount sufficient to repay the debtor's obligations to creditors, including liability for payment of taxes and duties (mandatory payments), and restoration of debtor's solvency (pretrial reorganization).

3. Providing financial assistance to the debtor obliges him to undertake corresponding obligations before persons who have provided such assistance in the manner prescribed by the law.

4. Pretrial reorganization of public enterprises is financed by funds of state enterprises, the State Budget of Ukraine, and other sources of funding. Funds for pre-trial reorganization of public enterprises at the cost of the State Budget of Ukraine is set annually by the Law on the State Budget of Ukraine.

Conditions and procedure of pretrial rehabilitation of public enterprises from other funding sources agree with the subject of public property, as established by the Cabinet of Ministers of Ukraine.

Pretrial rehabilitation of public enterprises is carried out according to law.

#### **Article 6. Procedures for debtor's pretrial restructuring**

1. The debtor is entitled under the creditors' consent and in the manner prescribed by this article, hold a pre-trial (extrajudicial) reorganization procedure under the following conditions:

in the presence of a decision of the authority entitled by law or the debtor's constituent documents to decide on the reorganization or restructuring of the debtor;

in the absence regarding the debtor, at the time of the decision to conduct pretrial restructuring, of debt collection by court orders, write-offs from accounts, wages arrears to the employed and laid-off workers, debt in the payment of insurance contributions for compulsory pension insurance and other compulsory social security payments;

in the presence of a reorganization plan and a protocol decision signed by the creditors about entering the process of pretrial restructuring and agreement of the creditors on implementation of the pretrial reorganization plan;

if the debtor's manager appointed as the person responsible for the pretrial restructuring or the person involved on the basis of the contract has the qualification certificate of the trustee (property manager, restructuring manager, receiver), received in the manner established by public authority on bankruptcy.

The protocol decision signed by the debtor and the creditors about entering the process of pretrial restructuring and agreement of the creditors on implementation of the pretrial restructuring plan shall be the only ground for holding of the pre-trial reorganization procedure of the debtor.

The contents of the pretrial restructuring plan must meet the general requirements of this law to the debtor's reorganization plan in the order of judicial reorganization.

Pretrial restructuring of the debtor is introduced for a period not exceeding 6 months. Prolongation of the period of pretrial restructuring shall not be permitted.

2. The debtor's manager or other authorized body, intending to carry out his pre-trial reorganization, are obliged to inform in writing all known creditors of the debtor about holding of a pretrial restructuring, its general conditions, and expected results and to offer the creditors to consider and support the pretrial restructuring plan.

The debtor's proposal must contain the notice of the time and location of the meeting of creditors to resolve questions about the approval of the reorganization plan and approval of pretrial restructuring of the debtor.

Creditors' meeting is to be held within twenty days after the debtor's address to his creditors.

3. The decision on introduction of the debtor's pretrial restructuring procedure may be taken if over fifty percent of creditors have voted for this decision and for granting consent for implementation of the pretrial restructuring plan, the total number of which is calculated according to the debtor reporting data. Calculation of creditors' votes is done at the debtor's creditor meeting considering Article 20 of this Law.

In case of rejection by most creditors of the debtor's offer to enter pretrial restructuring procedures and agreement on implementation of the plan of pretrial rehabilitation, the debtor's pre-trial reorganization is not performed.

In case of support by most creditors of the debtor's to enter pretrial restructuring procedures and agreement on implementation of the plan of pretrial rehabilitation, the debtor's pre-trial reorganization is performed according to the procedure, terms and conditions suggested by the plan. In this case, the conditions of repayment of the accounts payable which pertain to the terms and amounts of payment of debts for the creditors that did not participate in voting or voted against introduction of the pretrial rehabilitation procedure, and/or did not support the plan of pretrial rehabilitation of the debtor shall be not worse that the conditions of repayment of the accounts payable for creditors that approved the plan of pretrial rehabilitation and agreed for its introduction.

4. In a pretrial restructuring procedure, the creditors meet to decide issues within the competence of the creditors' meeting, the creditors committee, and the commercial court in the judicial reorganization procedure, taking into account the specifications provided in this Article and except for matters that can not be resolved by the creditors pursuant to applicable law.

5. At the time of the pretrial restructuring procedures for repayment of creditors' claims that arose before the date of the pretrial restructuring procedure, one applies limitations provided for in part 4 of Article 15 hereof.

6. In case of failure to implement the pretrial restructuring plan or if it becomes evident that its implementation will not lead to debtor's solvency restoration, the procedure of pretrial restructuring is terminated.

7. Before the period prescribed by the plan of pretrial restructuring of the debtor agreed by the creditors, except the cases of its early termination, the proceedings in the debtor's bankruptcy case are not subject to interference.

8. If the previous pretrial restructuring of the debtor has been completed less than a year ago, introduction of the pretrial restructuring procedure of the debtor shall not be permitted.

9. Methodological recommendations on conducting of the pretrial restructuring procedure shall be prepared and approved by the government authority on bankruptcy.

### **Article 7. Court proceedings applicable to the debtor**

1. According to this Law the following bankruptcy court proceedings shall apply to the debtor:  
disposal of the debtor's property;  
settlement agreement;  
restructuring (restoration of solvency) of the debtor;  
bankrupt's liquidation.

2. Reorganization of the debtor or bankrupt's liquidation shall be subject to the laws on protection of economic competition.

## **Section II PROCEEDINGS IN BANKRUPTCY CASES**

### **Article 8. Jurisdiction, amenability, grounds for opening of proceedings in the bankruptcy case**

1. Bankruptcy cases are within the jurisdiction of commercial courts and are reviewed at the location of the debtor.

2. The right to appeal to the commercial court with a bankruptcy claim belongs to the debtor and the creditor.

3. The bankruptcy case is initiated by the commercial court if the creditor's (creditors') undisputed claims to the debtor collectively make up at least three hundred minimum wages that have not been satisfied by the debtor within three months set for the maturity period, unless otherwise stipulated in this Law.

### **Article 9. Application for imitation of the bankruptcy case**

1. The application on opening of the proceedings in the bankruptcy case is filed by the debtor or the creditor in writing, and signed by the manager of the debtor or the creditor (or other person, whose powers are defined by the legislation or statutory documents), individual entrepreneur (his representative) and shall contain:

the name of the commercial court to which the application is made;

the name (full name) of the debtor, his mailing address;

the name of the creditor, his mailing address if the creditor is a legal entity;

full name and residence address, if the creditor is an individual;

the number (code) that identifies the creditor as a payer of taxes and duties (mandatory payments);

description of the circumstances that confirm the debtor's insolvency, and indicating the amount of debt claims of creditors and deadlines, the amount of penalties (fines, penalties), details of the payment document to write-off funds from the debtor's bank or a correspondent account and the date of its acceptance by the debtor's banking institution for execution;

the list of documents supporting the application.

2. Except the information specified by the first part of this Article, the debtor's application shall specify the following:

the total amount of creditor claims receivable in the amount that is not disputed by the debtor; the amount of arrears of premiums for the compulsory state pension insurance and other types of mandatory state social security, taxes and duties (mandatory payments);

the amount of debt to repair harm caused to life and health, payment of wages and employee severance to the debtor's employees, and payment of royalties;

availability of property of the debtor, including sums of money and accounts receivable;

names of banks conducting cash management and loan servicing of the debtor.

3. The following documents are attached to the debtor's application:

the decision of the debtor's property owner on the debtor's appeal to the commercial court with an application, except as provided in part five of this Article;

the balance sheet of the last reporting date, signed by the manager and the accountant of the debtor enterprise;

the list and complete description of the pledged property indicating its location and price at the time of lien;

decision of the general meeting of founders (participants) of the company, corporation, participants of companies with limited or additional liability, which determines the authorized person of the shareholders, members of a limited or additional liability company or enterprise founders (participants), is the issue was settled at the meeting;

decision of the general meeting (conference) of representatives of the debtor's employees or primary trade union organization (primary trade union organizations) of the debtor, establishing the representative of the debtor's employees to represent them in the bankruptcy case proceeding when such a decision is made;

copy of the special permission for conducting of activity related to state secrets, and in case of expiration of such permission, information about the debtor's possession of material carriers of secret information (technical documentation, products, their developmental prototypes, etc.)

documents confirming the debtor's insolvency.

4. A debtor is applying to the commercial court if he has sufficient property to cover the court costs, unless otherwise stipulated in this Law.

5. The debtor must apply within one month to the commercial court with a bankruptcy claim in the following circumstances:

when satisfying claims of one or more creditors will lead to inability of the debtor to fulfill his financial obligations in full before other creditors;

when the body of the debtor, authorized under the statutory documents or legislation to decide on liquidation of the debtor has decided to appeal to the commercial court with an application of the debtor to open the bankruptcy case;

when during the liquidation of the debtor - unrelated to the bankruptcy proceedings, there was identified the debtor's inability to satisfy creditors' claims in full;

lien on the debtor's property will make conducting of the debtor's business activity significantly more complicated or impossible;

in other cases stipulated by this Law.

6. Except for the information specified in part one of this Article the debtor's application shall include:

Information about the claims of the creditor to the debtor indicating the amount of penalties (fines, penalties) payable;

description of the circumstances, confirming the debtor's obligation before the creditor, resulting in the claim and the term of its implementation;

evidence of excess amount of confirmed claims to the debtor of three hundred minimum wages, unless otherwise provided herein;

evidence supporting the claims of the debtor;

other circumstances on which the creditor's application is based.

7. The following documents are attached to the creditor's application:

court decision, commercial court decision, which reviewed the claims of the creditor to the debtor;

a copy of the unpaid payment document, on the basis of which and according to the law, the writing off of the debtor's accounts is taking place featuring confirmation by the debtor's bank of receipt of this document for execution including the date of receipt, administrative documents (execution letter, notarized executing inscription, etc.) or other documents evidencing recognition of creditor claims by the debtor;

evidence that the value of the collateral is insufficient to fully satisfy claims secured by collateral if the only confirmed claim of the creditor filing the application is secured by the debtor's assets;

8. The debtor's application may be based on the joint debt of the debtor for collection of various commitments of the debtor before the creditor.

Creditors have the right to combine their claims to the debtor and apply to court with a joint claim. Such a claim is signed by all creditors who joined their claims to the debtor.

9. The evidence of taking measures to obtain debt on compulsory payments as established by the legislation is attached to the application of the creditor - a state tax authority or other government body that controls the accuracy and timeliness of collection of contributions to the compulsory state pension insurance and other forms of compulsory social security, taxes and duties (mandatory payments).

10. When submitting the application for bankruptcy, the creditor must send the debtor a copy of the application and annexed documents.

11. If at the time of submission of bankruptcy application to the court, one or more debtor bankruptcy applications were received, the court shall consider all of these applications including the application by the creditor or debtor, filed last.

12. An administrative fee is levied of the bankruptcy applications pursuant to the law.

### **Article 10. Receipt of the application on opening the bankruptcy case**

1. In the absence of grounds for refusal or return of the application on opening of proceedings in the bankruptcy case, in not later than three days after its receipt, the judge accepts the application for consideration, which is supported by the ruling, stating the date of the preparatory session of the court.

The ruling on accepting the application on opening the proceedings in the bankruptcy case is not subject to appeal.

If the application or opinion of the debtor is accompanied with the information about the debtor's conducting of the activity related to state secrets, the court shall deliver and send to the

parties and the state body responsible for bankruptcy issues the ruling about postponement of the preliminary hearing for the time necessary to grant clearance for access to state secrets to the trustee appointed for exercising of powers by the state body responsible for bankruptcy issues, but for not more than 60 days.

If it is impossible to grant the clearance for access to state secrets to the said trustee, the state body responsible for bankruptcy issues shall appoint a new trustee.

2. Preparatory court meeting is held no earlier the twentieth and no later than thirtieth day from the date of acceptance of the bankruptcy application.

3. Decision on accepting the application for opening of the proceedings in the bankruptcy case is sent to the parties not later than five days after the adoption and to the state executive service authority at the debtor's location (residence).

4. The debtor before the date of the preparatory meeting shall submit to the commercial court and to the applicant a response to the application on opening the proceedings in the bankruptcy case.

5. The response to the application on opening the proceedings in the bankruptcy case should contain the debtor's objections to the applicant's (applicants') claims.

6. Lack of response to the application does not stop the case proceedings.

7. When leaving the application of the initial applicant without consideration, the commercial court shall decide on accepting the application for review by other creditor according to the calendar priority of its receipt by the commercial court in the manner prescribed by this Article.

#### **Article 11. Refusal to accept the bankruptcy application**

1. The judge of the commercial court rejects the bankruptcy application if:

the debtor is not included in the Unified State Register of Enterprises and Organizations of Ukraine or the Register of economic entities;

an application has been filed to open the bankruptcy case for liquidated or reorganized (except reorganization in the form of transformation) legal entity;

the bankruptcy case has been opened against the debtor – legal entity or individual entrepreneur;

If the claims of the creditors who filed the application on opening the bankruptcy case, totaling in the amount less than three hundred minimum wages, unless otherwise stipulated in this Law;

creditors' claims are fully secured by collateral;

a pretrial restructuring process that has been initiated for the debtor is not completed and is continuing at the time of application to the commercial court to open the bankruptcy case proceedings;

no judicial procedures can be applied against the debtor in accordance with this Law.

2. In case of rejection of the application a ruling is issued, which is then forwarded to the applicant within five days of the receipt of application along with the application and attached documents.

3. Decision to refuse the acceptance of application may be appealed in due course.

#### **Article 12. Return, withdrawal of the application on opening the bankruptcy case**

1. The judge no later than three days after the receipt of the application by the commercial court returns the application on opening the bankruptcy case proceedings and attached documents without consideration supported by the ruling if:

the application was signed by a person unauthorized to sign it, or the person whose position in the statement was not specified;

the application does not specify full names of the parties, their mailing addresses and other information listed in Article 9 of this Law;

the evidence of payment of the state duty in the prescribed manner and amount was not submitted;

the applicant has not fulfilled the term specified in paragraph three of Article 1 hereof;

on other grounds under Article 63 of the Commercial Procedural Code of Ukraine, considering the provisions of this Law.

2. Return of the application on opening of the proceedings in the bankruptcy case does not prevent re-appeal with the similar statement to the commercial court in due course.

3. If several bankruptcy proceeding applications were filed and one of them was returned without consideration, the judge shall consider other applications for proceedings in the bankruptcy case.

4. The court shall make a ruling on the return of the application of bankruptcy case proceedings without consideration, which can be appealed in due course.

5. The bankruptcy proceeding application may be withdrawn by the applicant (applicants) before the date of the preparatory session of court, if within one month the economic court did not receive other creditor applications to meet their claims, where an appropriate ruling is made.

### **Article 13. The preparatory session of the court**

1. In the preparatory session, the court establishes the grounds for opening or refusal to open proceedings in the bankruptcy case, for which it estimates the submitted documents, listens to the explanations of the parties and others, examines the validity of objections to the debtor.

In case of refusal to open proceedings in the bankruptcy case, the commercial court decides on accepting other creditor's application for review according to the calendar priority of their receipt by the commercial court.

2. Failure of a debtor or creditor to appear for trial, who were appropriately notified on time and place of trial does not prevent the judicial proceedings.

3. Opening of proceedings in the bankruptcy case is supported by the ruling,, the full text of which is announced in court.

4. The ruling shall contain reasons, which led the Court to conclude about opening of the bankruptcy case proceedings and the provisions of the law used by the court, one also states the volume of creditor claims who filed the application about opening of the bankruptcy case, about introduction of procedures of management of the debtor's property, appointment of a property manager unless when such appointment is made by the state authority on bankruptcy, the date of the previous trial, to be held not later than three months after the date of the preparatory session of the court.

5. The ruling on opening the proceedings in the bankruptcy case within five days after issuing is given or sent to the parties, the state authority on bankruptcy, the state registrar at the location of the debtor, and the authority of state executive service at the debtor's location (residence).

6. The judge of commercial court refuses in opening the proceedings in the bankruptcy case if:  
the bankruptcy case has been opened against the debtor – legal entity or individual entrepreneur;

creditor's claim, which application initiated the bankruptcy proceedings, was satisfied in full by the debtor;

there are no grounds for initiating proceedings in the bankruptcy case;

there are grounds for suspension of proceedings provided for in Article 43 of this Law.

7. The ruling to refuse in opening of proceedings in the bankruptcy case may be appealed in due course.

8. To determine the financial situation of the debtor in the preparatory meeting of the court or during the review of the bankruptcy case the judge may order an inspection. When the debtor applies to the court with an application to open the bankruptcy case and the signs of his insolvency emerge in the preparatory meeting.

9. The creditor which application initiated the proceedings in the bankruptcy case, is entitled to claim additional property claims to the debtor within the period established in Article 19 of this Law.

10. The commercial court in the ruling on the opening of proceedings in the bankruptcy case may require the debtor to submit an audit report or to perform audit to confirm its financial and economic status.

In the absence of funds of the debtor for performance of audit, the commercial court may appoint audit at the cost of the creditor and under his agreement followed by the compensation of related costs by the debtor. Lack of audit opinion does not stop the proceedings in the bankruptcy case.

11. After making the ruling on the proceedings in the bankruptcy case, the decision on reorganization or liquidation of the debtor – legal entity is made in the manner prescribed by this Law.

#### **Article 14. Official publication of notice on opening of proceedings in the bankruptcy case**

1. In order to find creditors and persons willing to participate in restructuring of the debtor, the notice on opening of proceedings in the bankruptcy case (official promulgation) shall be published on the official web page of the Supreme Economic Court of Ukraine within one day after issuing of the court ruling about opening of proceedings in the bankruptcy case. Access to the information about the proceedings in the bankruptcy case published on the official web page of the Supreme Economic Court of Ukraine shall be unrestricted and free of charge.

2. The notice of opening of proceedings in the bankruptcy case must include the name or the title of the debtor, his location or residence, identification number of the legal person identification number of an individual entrepreneur (if available), the name and address of the commercial court, case number, date of official promulgation of the notice, information about the property manager (name, license number, location), the deadline for application of creditors with claims to the debtor.

3. Information about opening of proceedings in the bankruptcy case may be additionally published on the official web page of the government authority on bankruptcy and in any other case not prohibited by law.

#### **Article 15. Supporting creditors' claims, moratorium to satisfy creditors' claims**

1. The commercial court has the right by the request of the parties or participants in the bankruptcy case or on its own initiative take measures to support the claims of the creditors.

The commercial court at the request of the property manager, creditors, or on its own initiative may deny the debtor enter into an agreement without trustee's consent and require the debtor to

transfer securities, other valuables, and the property to the third parties for protection, to do or abstain from certain actions or to take other measures for protection of the property of the debtor, which is supported by the ruling.

2. In the process of disposal of the property at the request of the parties, participants of proceedings in the bankruptcy case or property manager that contains confirmed evidence of obstruction by the debtor's manager of execution of the property manager functions, as well as about the acts committed by the debtor's manager that violate rights and legitimate interests of the debtor or creditors, the commercial court has the right to suspend the debtor's manager and put his responsibilities on property manager. The commercial court makes a ruling on dismissal of the debtor's manager which can be appealed in due course.

3. Measures to support the creditors' claims are valid till end of the procedure of the debtor's property management.

The commercial court may repeal or amend arrangements to support creditor claims before completion of the procedure of the debtor's property management and abolish or change procedures applied outside the proceedings for supporting the claim or enforcement of the decision that make it impossible to satisfy creditor claims or hamper the debtor's economic activity, appropriately supported by the ruling which may be appealed in due course.

4. Moratorium on the satisfaction of creditor claims is put together with the delivery of the court ruling on acceptance of the petition on opening of proceedings in the bankruptcy case.

During the moratorium on satisfaction of creditor claims:

it is prohibited to collect on the basis of administrative and other documents which suggest levying through court or out of court procedure according to the law, except when the enforcement proceeding is at the stage of allocation of funds charged from the debtor (including proceeds from the sale of the debtor's property) and the property being in the process of sale since the publication of information on sales;

it is prohibited to satisfy the claims covered by the moratorium

a forfeit (fine, penalty) is not charged and so are other sanctions for failure or improper performance by the debtor of obligations to satisfy the claims covered by the moratorium.

5. The moratorium on satisfaction of creditor claims is applied to creditors' claims for reimbursement of losses incurred in connection with the refusal of the debtor to fulfill obligations, in the manner as stipulated in Article 9 hereof.

6. The moratorium on satisfaction of creditor claims does not apply to salaries, alimony, reimbursement of damages caused to health and life of citizens, and for payment of royalties.

Moratorium does not apply to claims of the initiating creditor satisfied by the debtor before the court opens the proceedings in the bankruptcy case, claims of creditors performed by the restructuring manager in accordance with the restructuring plan approved by the commercial court or the receiver in the liquidation procedure in the priority order established by Article 34 of this Law.

7. Moratorium validity is terminated from the date of termination of proceedings in the bankruptcy case.

## **Article 16. Recognition of the debtor's agreements void**

1. The court at the request of the debtor or the trustee (property manager, restructuring manager, and receiver), or creditors may:

declare invalid any agreement to sell the debtor's property, made within three months before opening of bankruptcy proceedings, if it was made in the interest of the person concerned by the debtor;

declare invalid any agreement to sell the debtor's property or the adoption by the latter of the obligations during one year before the proceedings in the bankruptcy case, if the sale of property was made to conceal the property or non-payment of debts if the debtor as a result of the agreement received less than the actual transaction (property) value and if the debtor at the time of the agreement was in fact already insolvent or became insolvent as a result of such agreement.

2. Consideration of applications for recognition of agreements void and return of everything that has been received by such agreements, as well as abolishment of other consequences of invalidity including those provided for those in Chapter 83 of the Civil Code of Ukraine, is organized by the court through the procedure of bankruptcy case proceedings in all its stages.

### **Article 17. Management of the debtor's property**

1. The procedure for the debtor's property management is introduced to ensure the property interests of the debtor's creditors. The debtor's property manager is appointed according to this Law.

The procedure for debtor's property management is introduced for a period of twelve months.

2. Property manager is appointed by the commercial court subject to the requirements prescribed in Article 4 of this Law, from among the trustees, which information is provided by the state authority on bankruptcy in the established order to the Supreme Commercial Court of Ukraine, unless otherwise stipulated in this Law.

The creditors have the right to propose the property manager, who meets the established requirements, except as provided for in Article 58 of this Law.

5. A person may not be appointed as property manager if:

before he carried out management for the debtor - legal entity or its structural unit, except when more than three years have passed after removing the person from debtor management position or its structural unit;

he has a criminal record for committing profit-motivated crimes.

6. The ruling of the commercial court to appoint a manager for debtor's property may be appealed in the prescribed manner and does not stop its execution.

8. The property manager is entitled to:

apply to the commercial court in cases envisaged by this Law, including the petitions on removal of an attachment from the debtor's property;

convene meetings of creditors and to participate in them in an advisory capacity;

analyze debtor's financial situation and recommend the meeting or the creditors committee arrangements for its financial recovery;

receive compensation in the amount and the manner prescribed by this Law;

attract specialists to enforce its authority on a contractual basis with compensation at the expense of the debtor, unless otherwise provided in this Law or a decision of the committee of creditors;

submit application to the commercial court on the early termination of their powers;

exercise other powers under this Law.

9. The property manager must:

- review the copies of creditor claims for monetary claims against the debtor in connection with the opening of proceedings in the bankruptcy case received in the manner prescribed by this Law;
- maintain a register of creditors' claims in the prescribed manner;
- notify creditors of the results of their claims and inclusion of the recognized claims to the register of creditor claims or on refusal to recognize the claims of the debtor;
- take measures to protect the debtor's property;
- analyze financial, economic and investment activities of the debtor, its position in the commodity markets;
- detect signs of false bankruptcy or forced bankruptcy;
- convene meetings of creditors and arrange for their organization;
- provide the state authority on bankruptcy with information necessary to conduct a Unified database of businesses for which a bankruptcy case has been opened;
- provide the commercial court and the creditor committee with the report on its activities, information about the debtor's financial situation, suggestions on the possibility of restoration of the debtor's solvency;
- within three months of the opening of the proceedings in the bankruptcy case, together with the debtor to organize and provide an inventory of his property and its independent assessment;
- within six months of the opening of the bankruptcy proceedings, develop and submit to the committee of creditors the debtor's reorganization plan;
- perform other functions stipulated in this Law.

10. In exercising his duties, the property manager must act in good faith, reasonably, and take into account the interests of the debtor and its creditors.

The property manager is liable for failure or improper performance of duties under the legislation of Ukraine.

Powers of property managers are terminated from the day when the commercial court approves the settlement agreement, appointment of a restructuring manager or receiver, unless otherwise stipulated in this Law.

11. Following the appointment of property manager and termination of the procedure of property management, the debtor's control bodies are not entitled to make decisions without the consent of the property managers about the following:

- reorganization (merger, accession, division, transformation) and the liquidation of the debtor;
- establishment of legal entities or participation in other legal entities;
- establishment of branches and representative offices;
- payment of dividends;
- debtor's issuance of securities;

withdrawal from among the participants of the debtor - legal entity, purchase of previously issued shares of the debtor from the shareholders.

12. The decision on debtor's participation in the unions, associations, holding companies, financial and industrial groups or other associations of legal persons is adopted by the debtor's control bodies under the consent of the property manager.

13. The economic court upon the petition of the property manager shall remove the attachment from the debtor's property or other restrictions on disposition of the debtor's property if such attachment or restriction hinders the business activity or restoration of solvency of the debtor.

14. The manager or the management body of the debtor, exclusively in agreement with the property manager, enter into agreement on the following:

alienation or encumbrance of immovable property of the debtor, including its lease, collateral, making this property to the statutory fund of the other company or business entity, disposition of real estate of the debtor in any other way;

receipt and issuance of loans (financing), provision of surety guarantees, assignment, delegation and transfer the property of the debtor in trust management;

any other way of debtor's property management, the book value of which is more than one percent of book value of assets of the debtor.

15. The trustee of has no right to interfere in the operations and business activities of the debtor except as provided in this Law.

16. Appointment of property manager can not be the grounds for termination of the manager or the managing body of the debtor.

17. The powers of the manager of the debtor or its management bodies entrusted to them according to legislation or statutory documents may be terminated if they are not taking measures to safeguard the debtor's property, obstruct actions of property manager, or allow other violations of the law.

In the event of specified circumstances, at the request of creditors or other parties in the bankruptcy case, by the ruling of the commercial court, the authority of the manager of the debtor or its management bodies is suspended, and their functions temporarily are put on property manager prior to appointment of a new manger of the debtor in accordance with the law and statutory documents.

18. Since the imposition of the commercial court's ruling on dismissal of the manager of the debtor or the debtor's management bodies, the manager, whose powers were terminated by the commercial court shall, within three days transfer accounting and other debtor's documentation, his seals and stamps, material and other values to the property manager and property manager shall accept it.

19. By the end of the procedure of the debtor's property management, the committee of the creditors must approve and submit to the commercial court a motion with one of the following decisions:

on adopting a plan of restructuring and introduction of a restructuring procedure of the debtor;  
on recognition of the debtor bankrupt and the liquidation procedure;  
of the settlement agreement.

20. The commercial court, on the basis of the decision of the creditors committee and according to the law shall make a ruling on the introduction of the restructuring procedure, the resolution on recognition of the debtor bankrupt and the liquidation procedure or approves settlement agreement in the bankruptcy case proceedings.

21. If the committee of creditors does not to take any decisions prescribed in part 18 of this article, the commercial court within five days after completion of the debtor's property management procedure shall adopt a resolution on recognition of the debtor bankrupt and start of the liquidation procedure.

22. Since the declaration of the debtor bankrupt by the commercial court and start of the liquidation procedures or procedures for the introduction of restructuring or settlement agreement, the procedure for management of property and property manager's authority shall be terminated.

## **Article 18. Detection of creditors and persons willing to participate in the restoration of the debtor's solvency**

1. Bankruptcy creditors in accordance with the claims emerged prior to the day of proceedings in the bankruptcy case, within thirty days after official publication of the notice of proceedings in the bankruptcy case must submit in writing to the commercial court the claims to the debtor, and supporting documents.

Creditors claiming wages, royalties, alimony, and claims for damage caused to life and health of citizens, are entitled to submit in writing to the commercial court the claims to the debtor, and supporting documents.

The copies of these claims and attached documents are sent by the creditors to the property manager of the debtor.

In case of receipt by the commercial court of enforcement documents of monetary claims against the debtor from the state executive service, the creditors' filing claims specified in the enforcement documents on the relevant claims is not required.

2. Claims of bankruptcy creditors declared at the end of the period set for their submission, or not declared at all – are not reviewed and deemed satisfied, as noted by the commercial court ruling, which approves the register of creditors' claims. The specified time is final and is not subject to renewal.

Claims of bankruptcy creditors that are not declared within the period set forth by this Article are not reviewed and deemed satisfied, as noted by the commercial court ruling, which approves the register of creditors' claims.

3. The debtor prepares the register of persons who have or might have monetary claims against the debtor, whether the debtor recognizes such claims or not, and within five days since the day that follows the day of official promulgation of the notice on opening of proceedings in the bankruptcy case sends written notices on opening of proceedings in the bankruptcy case to such persons by registered mail with the enclosure list or gives such notices to the said persons with confirmation of their receipts. Copies of the notices shall be submitted or sent by the debtor to the property manager in accordance with the same procedure.

The notice shall be composed in accordance with the regulations of part three of Article 14 hereof.

The register of monetary claim along with confirmations of sending of notices shall be submitted by the debtor to the property manager.

4. The property manager of the debtor within ten days since the day that follows the ending the period set forth by part 1 of this Article, taking into account the results of consideration of creditor claims by the debtor, including monetary claims under enforcement documents received from state executive service agencies, shall fully or partially recognize or reject these claims substantiating the grounds for recognition or rejection, and notify the claimants and the economic court about that in writing.

5. The bankruptcy creditor monetary claims filed in accordance with the established procedure and recognized by the commercial court, and monetary claims for the enforcement documents received from the state executive service, to be included in the register of creditors' claims by the manager of the property.

6. The manager of the property must separately submit to the registry of creditors' claims:

information about the claims for salaries, royalties, alimony, and the claims for damage caused to life and health of citizens, if there are no claims of such creditors, - according to the debtor's accounting information.

creditor claims, confirmed by enforcement documents, and in case of failure to submit claims by such creditors according to the part one of this Article - include these claims to the register pursuant to the order laid down in Article 34 of this Law.

claims of creditors which are secured by the debtor's collateral, according to their claims and in case when creditors fail to provide such applications according to part one of this article, - according to the debtor's account data, and to separately include to the register information about the debtor's property that is collateral under the State Collateral Register.

7. The economic court shall deliver the ruling on approval of the register of creditors' claims.

8. Individuals and (or) legal entities that intend to participate in the restructuring of the debtor, may submit an application for participation in the restructuring of the debtor to the property manager adding proposals to the application to restore his solvency (restructuring).

9. The debtor has the right during the procedure of property management to simultaneously satisfy all creditor claims included in the register of creditors' claims.

10. Claims of post-bankruptcy creditors in the proceedings on the bankruptcy case within ten days since the date of their receipt shall be reviewed by the debtor, who shall notify the property manager about that. The property manager of the debtor within ten days, taking into account the results of consideration of creditor claims by the debtor, including monetary claims under enforcement documents received from state executive service agencies, shall fully or partially recognize or reject these claims substantiating the grounds for recognition or rejection, and notify the claimants and the economic court about that in writing.

11. In case of full or partial rejection of a post-bankruptcy creditor's claim such claim to the extent that was rejected may be filed in the economic court and shall be examined by the economic court as part of the proceedings in the bankruptcy case.

12. Full or partial recognition of a post-bankruptcy creditor's claim by the property manager or economic court shall constitute grounds for its inclusion in the register of creditors' claims in order of precedence in accordance with Article 34 hereof, which shall be stated in the economic court ruling.

13. Bankruptcy and post-bankruptcy creditors' claims redeemed fully or partially shall be excluded from, and post-bankruptcy creditors' claims in the proceedings in the bankruptcy case shall be included in the register of creditors' claims by the property manager (restructuring manager, receiver).

14. In case of introduction of changes to the register of creditors' claims that exceed thirty percent of volume and (or) content of the previously approved register of creditors' claims excluding the amounts of forfeits (fines, penalties), other financial sanctions, moral damage, state duty and payment for informational and technical support of the proceedings in the bankruptcy case declared or paid by the creditors in the course of the proceedings in the bankruptcy case, the property manager (restructuring manager, receiver) shall address the economic court that shall approve the register of creditors' claims with the introduced changes.

## **Article 19. Preliminary meeting of the commercial court**

1. In the previous meeting, the commercial court reviews the claims of the creditors including monetary claims from the enforcement documents sent by state executive service agencies featuring

objections of the debtor's and which were not included to the register of claims of creditors by the property manager.

2. The parties and other participants in bankruptcy proceedings established as such in accordance with this Law are notified on the court's preliminary meeting.

Based on the results of review of the creditor claims the commercial court within three months after the preliminary meeting shall make a ruling stating the amount and the list of the court recognized creditor claims, which are included by the property manager in the register of creditors' claims, the volume and the list of creditor claims unrecognized by the court and the date of the meeting of creditors.

3. The court shall publish the ruling on the Internet on the official web page of the Supreme Economic Court of Ukraine not later than on the next day after completion of the preliminary hearing. A copy of the ruling of the commercial court is sent to the parties and other participants in the bankruptcy proceedings and to the state authority on bankruptcy.

#### **Article 20. Holding meetings of creditors and establishment of a creditors' committee**

1. Within ten days after the ruling on the results of the preliminary meeting of the commercial court, the property manager informs the creditors according to the register of creditors' claims, including the authorized person of the employees and shareholders or members of a limited or additional liability company or enterprise on the place and time of the meeting of creditors and arranges for its organization.

The bankruptcy creditors are the participants of the meeting of the debtor's creditors with the voting right whose claims are included in the register of creditors' claims.

In case of full or partial redemption of claims of bankruptcy creditors and introduction and approval in accordance with the procedure established by this Law of changes to the register of creditors' claims, the creditors included in the last valid register of creditors' claims of the debtor shall have the right to vote.

The following individuals may participate in the meeting of debtor's creditors in an advisory capacity:

creditors whose claims were entered in the register of creditors' claims and secured by collateral;

a representative of debtor's employees; an authorized person of the shareholders or members of a limited or additional liability company or enterprise;

a representative of the subject of management of the state property;

trustee in bankruptcy;

a representatives of a government body on bankruptcy.

2. The creditors' meeting is considered competent regardless of the number of votes of creditors who participate in the meeting, if all creditors were notified in writing of the time and place of the meeting. The number of creditors at the meeting shall be determined according to Part IV of this article.

3. The meeting of creditors in proceedings in the bankruptcy case shall be convened by the trustee and on his initiative, and on the initiative of the committee of creditors or other creditors, whose claims amount to at least one third of all claims included in the register of creditors' claims or on the initiative of one third of the votes of creditors.

Creditors' meeting is convened by the trustee at the request of the creditors' committee or individual creditors (property manager, restructuring manager, and receiver) and is held for two weeks after the receipt of a written request to do so.

Creditors' meeting is held at the location of the debtor.

4. Creditors, including the state tax service bodies, other government agencies that exercise control over the correctness and timeliness of collection of contributions to the state pension insurance and other forms of compulsory social security, taxes and duties (mandatory payments) at the meeting of creditors have the number of votes proportionate to the amount of creditors' claims included in the register of creditors' claims and multiples of thousand UAH.

In determining the number of votes of creditors with the voting right the amount of forfeit (fines, penalties), other financial sanctions, moral damages, and payment of state duty for the information and technical support for litigation in the bankruptcy case, claimed or paid by the creditors in bankruptcy case proceedings are not taken into account.

5. The competence of the creditors' meeting shall cover decisions on:  
determining the number and election of members of the committee of creditors;  
early dissolution of the creditors committee or its individual members;  
other issues envisaged by this Law.

6. At the time of the bankruptcy procedures, the creditors' meeting shall elect the creditors committee consisting of not more than seven persons.

Election of the creditors committee is held by an open voting by a majority of votes of those present at the meeting of creditors established in accordance with part 4 of this Article.

In the bankruptcy procedures, the interests of all creditors are represented by the creditors committee, created pursuant to this Law.

7. Protocol decision of the creditors' meeting on the establishment and composition of the creditors committee is forwarded to the commercial court.

8. The competence of the creditors committee shall cover decisions on:

electing a Chairman of the committee;  
convening meetings of creditors;  
making proposals to the commercial court (petitions) to extend or reduce the term of the debtor's property management procedures or the debtor's reorganization;  
appeal to the commercial court with a request for opening of a restructuring procedures, declaring of the debtor bankrupt or opening of the liquidation procedure;  
provision of agreement for major contracts by the trustee of the debtor or the debtor's contracts for which there is interest;

[appeal to the commercial court](#) or state authority on bankruptcy with the petition for termination of the functions of the trustee appointed by them (property manager, restructuring manager, receiver) and to appoint another trustee in bankruptcy (property manager, restructuring manager, receiver);

preparation and making a settlement agreement;  
approval of the investor (investors) to participate in the debtor's restructuring;  
approval of the debtor's restructuring plans and amendments thereto;  
other issues envisaged by this Law.

A trustee in bankruptcy is entitled to participate in the committee meetings in an advisory capacity, a representative of the debtor's employees, an authorized person of the shareholders or the

members of limited or additional liability companies, the founders (participants) of the company and, if necessary, a representative of the state body on bankruptcy, local government .

9. Decision of the meeting (committee) of creditors is taken by the majority of votes if the creditors present at the meeting (committee) have voted for it, the number of their votes is determined in accordance with part 4 of this Article.

10. If the creditor in the bankruptcy case is a single person, the powers of the creditors' meeting and creditors' committee envisaged by this Law shall be performed by this person.

10. In case of introduction of changes to the register of creditors' claims and their approval by the economic court in accordance with the procedure and on the grounds envisaged by part fourteen of Article 18 hereof, the property manager (restructuring manager, receiver) of the debtor shall have to convene and organize the meeting of creditors and submit for their resolution the issue of re-election of the creditors' committee, chairman of the creditors' committee of the debtor.

11. Conducting of the meeting of creditors because of changing of the register of creditors' claims or election (re-election) of the creditors' committee in the changed or new composition shall not create an independent ground for change or revision of the decisions that were previously approved by the meeting or the creditors' committee.

### **Article 21. Debtor's restructuring plan**

1. The restructuring plan must include measures to restore the solvency of the debtor, the conditions of participation of investors, if any, and full or partial satisfaction of creditor claims, in particular by transferring the debt (part of the debt) to the investor, the term and regularity of payment of debts to creditors by the debtor or investor and the investor's responsibility for non-compliance with obligations taken under the plan of restructuring.

Restructuring plan must include measures for the observance of the Law of Ukraine "On Protection of Labor", industry rules and occupational safety norms, environmental protection, as well as the estimates for the corresponding measures.

Restructuring plan must include the term of restoration of the debtor's solvency. Solvency is considered restored in the absence of signs of insolvency, set by this Law.

In case when the investors are available the restructuring plan is developed and agrees with investors.

Restructuring plan may include conditions about:

fulfillment of debtor's obligations by third parties;

exchange of creditors' claims for the assets of the debtor and (or) his corporate rights;

fulfillment of claims of creditors by other ways in line with the legislation.

2. The debtor's solvency restoration activities including a restructuring plan may be the following:

enterprise reorganization;

reorientation of production;

closure of unprofitable production sites;

deferral and (or) installment of payments or absolution (writing-off) of a part of the debt, supported by the settlement agreement;

liquidation of accounts receivable;

restructuring of the debtor's assets in accordance with this Law;

sale of the debtor's property;

obligation of the investor on the redemption of the debt (part of the debt) of the debtor, in particular by transferring the debt to the investor (part of the debt), and his responsibility for failure to fulfill assumed liabilities;

fulfillment of the debtor's obligations by the owner of the debtor's property and his responsibility for failure to fulfill assumed liabilities;

alienation of assets and liabilities of the debtor by replacing assets;

dismissal of employees of the debtor who can not be involved in the process of implementing of the plan of restructuring;

obtaining loans to pay severance to debtor's employees, who are laid off under the restructuring plan that is immediately compensated in accordance with Article 34 of this Law by selling the debtor's property;

other ways to restore solvency of the debtor.

If the restructuring plan provides for dismissal of employees whose work can not be deployed during its performance, the restructuring manager not later than three months before the intended dismissal must submit the primary trade union organizations with relevant information and consult with trade unions on measures to prevent lay-offs, reduction of the number of laid-off workers to the minimum, or mitigation of any dismissal. Severance pay in this case is paid by the investor, and in his absence at the cost of the sale of the debtor's assets or loans received for this purpose.

If the debtor conducts the activity related to state secrets, the restructuring plan shall include measures to ensure protection of state secrets.

3. The investor (investors), subject to obligations under the plan of restructuring may acquire ownership of the assets of the debtor in accordance with the law and restructuring plan.

4. Restructuring plan shall envisage repayment of creditors' claims with due account for the order of precedence established by Article 34 of this Law.

5. Reorganization plan with appropriate justification, is considered by the creditors committee, which is convened by the property manager in the procedure of the debtor's property management. Property manager shall notify in writing the members of the creditor's committee about the date and place of the meeting of the creditors committee and for two weeks before the creditors committee meeting he provides an opportunity to get acquainted with previously developed restructuring plans.

Restructuring plan is considered approved if at the meeting of the creditors committee's such a decision was supported by more than a half of the voting creditors - creditors' committee members.

6. Creditors committee may take one of the following decisions:

approve the restructuring plan and submit it for approval to the commercial court;

reject the restructuring plan and address the commercial court with a request for declaring the debtor bankrupt or opening of the liquidation procedures;

reject the restructuring plan, and address the commercial court with a petition to remove the trustee from fulfilling the duties of property manager and on appointing a new manager of the property. This decision must contain the date of convening of the next meeting of the creditors committee to review a new plan of restructuring.

Restructuring plan approved by the committee of creditors (changes to the plan) and the minutes of the creditors committee meeting on the introduction of restructuring procedures are filed by the trustee in bankruptcy to the commercial court.

Decisions of the creditors' committee shall be substantiated and include description of circumstances and grounds that motivated the creditors to make such decisions.

## **Article 22. Making the ruling on the debtor's restructuring, appointment of the restructuring manager, and his powers**

1. The commercial court at the request of the creditors committee in the period not exceeding the term of property management procedures, makes the ruling to introduce the procedure of restructuring and approval of the debtor's restructuring plan.

The debtor's restructuring plan approved by the committee of creditors is attached to the petition for the debtor's restructuring.

Restructuring is introduced for a term suggested by the plan of restructuring, but not more than for eighteen months.

2. The manager of debtor's restructuring is appointed by the commercial court to meet the requirements stipulated in Article 4 of this Law from among the trustees, unless otherwise stipulated in this Law.

The candidate for the position of the manager of debtor's restructuring may be proposed to the commercial court by the committee of creditors, unless prescribed by this Law.

If the debtor conducts the activity related to state secrets, the restructuring manager shall be appointed with due account for the procedure set forth in paragraph three of part one of Article 10 of this Law.

3. The ruling of the commercial court on the introduction of manager of the restructuring procedure, approval of the restructuring plan and appointment of the restructuring manager shall enter into force after its approval and can be appealed in the prescribed manner that does not stop its execution.

4. Since the day of the ruling on the introduction of a restructuring procedure:

the debtor's manager is dismissed from office in accordance with the laws on labor;

debtor management is transferred to the restructuring manager;

the powers of the debtor's management bodies - legal person are terminated, and the powers of management bodies transfer to the restructuring manager.

The management bodies of the debtor within three days from the date of the decision on the introduction of the restructuring procedure and appointment of the restructuring managers are obliged to transfer the accounting and other documentation of the debtor to the restructuring manager, including its seals, stamps, material and other values;

Arrest of debtor's property and other restrictions on its actions to dispose of property may be imposed only within the procedure of restructuring and, if they do not prevent the implementation of the restructuring plan are consistent with the bankruptcy creditors.

The economic court upon the petition of the restructuring manager shall remove the attachment from the debtor's property or other restrictions on disposition of the debtor's property if such attachment or restriction hinders the business activity or restoration of solvency of the debtor.

5. The restructuring manager has the right to:

appeal to the economic court in cases envisaged by this Law and the Economic Procedure Code of Ukraine;

dispose of property of the debtor under the plan of restructuring and with the restrictions provided by the law;

on behalf of the debtor's enter settlement agreement, civil and legal, labor and other agreements;

apply for recognition of agreements concluded by the debtor, void;

6. The restructuring manager shall:

take the debtor's property for economic management and organize its inventory;

establish a special account for the restructuring and settlement with creditors;

ensure keeping by the debtor of the statistical, accounting procedures and financial reporting;

arrange measures for collection in the debtor's favor of accounts receivable and debt collection from individuals who along with the debtor and pursuant to the law or contract bear subsidiary or joint and several liability;

consider the claims of creditors on the debtor's obligations arising after the opening of the bankruptcy proceedings in the procedure of debtor's property management and restructuring;

claim objections, in the prescribed manner, to the alleged creditor claims to the debtor for obligations arising after the opening of the bankruptcy proceedings;

report to the state authority for bankruptcy within ten days from the date of issuing of the ruling by the commercial court on his appointment, approval of settlement agreement, completion of the restructuring plan, exemption from duties;

within three months from the date of his appointment provide repayment of the debtor's wage arrears and, in case of failure to redeem or partial redemption of wage arrears within the above deadline - to provide and ensure its absolute repayment through necessary changes and (or) additions to the plan of restructuring within the above period.

carry out other statutory authority.

7. Adoption of the report of the restructuring manager or early dissolution of the restructuring procedure entails termination of the trustee's functions as the restructuring manager, as indicated in the appropriate court ruling, unless otherwise stipulated in this Law.

In the event of early termination of restructuring procedures in connection with the settlement agreement or repayment of creditors' claims, the manager of restructuring within five days from the day of the relevant decision by the commercial court shall notify the authority or the official of the body in charge of appointing the debtor's manager (management bodies) and, if necessary, provides for the gathering or the meeting of relevant body and continues to exercise authority of the debtor's manager (management bodies) before the prescribed appointment.

8. Restructuring manager may be suspended from the exercising his powers in the following cases:

by the application of the restructuring manager;

on the basis of the decision of the creditors committee in the event of failure or improper performance of his powers;

in other cases stipulated by this Law.

9. The owner of property (property management body) may not limit the powers of the restructuring manager on disposition of property of the debtor.

Significant agreements and agreements attracting interest are concluded by the restructuring manager with the consent of the creditors committee, unless otherwise provided in this Law or the debtor's restructuring plan.

10. The restructuring manager in the three months after the decision to conduct restructuring is entitled to withdraw from the debtor's contracts made before opening of the bankruptcy proceedings unfulfilled in whole or in part if:

the fulfillment of the contract causes losses to the debtor;

agreement is long-term (over one year) or aims to obtain positive results for the debtor in the long run, except for the cases of production using the technological cycle longer than the time for debtor's restructuring;

the fulfillment of the contract creates conditions that prevent the restoration of the debtor's solvency.

A party to the contract for which the restructuring manager decided to refuse its enforcement is entitled to claim in the prescribed manner for compensation of damages arising in connection with the refusal of the execution of the contract in the bankruptcy proceedings within thirty days from the date of the decision by the restructuring manager.

11. In case the parties violate the conditions of the agreements concluded in accordance with the plan of reorganization during the restructuring procedure, protection of violated right that arose in connection with the restructuring procedure is performed in the procedure of bankruptcy case proceedings.

12. In case of declaration of the debtor bankrupt by the commercial court and opening of the liquidation procedure the restructuring manager continues to perform his duties until the transfer of his duties to the receiver or his appointment as the receiver in the manner established by this Law.

13. The restructuring manager quarterly reports to the creditors committee on the implementation of reorganization plan.

### **Article 23. Sale of the debtor's property as an integrated property complex in the process of restructuring**

1. In order to restore the solvency and fulfill creditor claims, the debtor's plan of reorganization may involve the sale of the debtor's property as an integrated property complex. Measures to ensure the creditors' claims on the debtor's property which is subject to sale in accordance with the plan of reorganization, are removed by the ruling of the commercial court .

2. When selling the debtor's property as an integrated property complex all kinds of equipment intended for the debtor's business is alienated in the prescribed manner, including premises, facilities, equipment, inventory, raw materials, products, rights for claims and markings which individualize the debtor, its products (labor, services) (trade name, trademarks for goods and services), other rights owned by the debtor, except for the rights and obligations that can not be transferred to others.

3. When selling the debtor's property as an integrated property complex that is made pursuant to this Article, monetary obligations and liabilities for payment of insurance contributions for compulsory pension insurance and other types of compulsory social security, taxes and duties (mandatory payments) of the debtor enterprise on the date of the receipt by the commercial court of the application to open the bankruptcy case are not included in the assets of debtor enterprise.

4. When selling the debtor's property as an integral property complex all employment agreements (contracts), concluded before the date of sale of the debtor's property as an integrated property complex, remain in force, and the rights and obligations of the employer are transferred to the buyer of debtor's property.

5. The amount received from the sale of the debtor's property as an integrated property complex, is included in the assets of the debtor.

6. Sale of the debtor's property as an integrated property complex is carried out in the open auction, unless otherwise stipulated by the plan of restructuring, in the manner prescribed by the Cabinet of Ministers of Ukraine.

Restructuring manager involves a specialized organization for these purposes, which may not be privy to regarding the creditor or the debtor.

7. Restructuring manager shall advertise the sale of the debtor's property as an integral property complex in the open auction in the official edition thirty days before the date of the auction.

8. The announcement about the sale of the debtor's property as an integrated property complex must include:

information about the integrated property complex and the order of site familiarization, deadlines for submission of bids, but no more than for one month after the publication of the advertisement; time, place and format of tender;

the format for bids;

initial cost of the integrated property complex, determined in accordance with the legislation on property assessment, property rights and professional assessment activities;

deposit amount, term and order of making the deposit;

the procedure of processing the auction results.

9. If within the period specified in the ad, an application was received to participate in the open auction on sale of the integrated property complex from a single applicant, the auction is not held. With the consent of the creditors committee the integrated property can be sold to such applicant without re-bidding.

10. The trading of the integrated property complex of the debtor is conducted in the form of auction or competition, except as provided in this Law.

The person who won the auction, and the restructuring manager sign the protocol on the day of the auction, which includes the conditions to buy the integrated property complex, and a corresponding sales contract is made.

If the auction is held in the form of competition, the competition conditions are agreed with the creditors committee.

If the auction is held in the form of competition and based on the protocol, signed by the winner and the organizer of trading on the day of competition, not later than fifteen days from the date of the competition a purchase agreement is signed for the integrated property complex.

11. The amount of deposit paid by the person who won the auction, if he refuses to sign the protocol or sales contract of the debtor's property as an integral property complex is included in the debtor's assets less the costs of bidding for the organizer of the auction.

If the debtor by the amount of proceeds from sale of property as an integrated property complex, satisfies creditors' claims in full, the proceedings in the bankruptcy case of the debtor is subject to termination by the commercial court at the request of a restructuring manager.

12. If the amount of the proceeds from the sale of the debtor's property as the integrated property complex is enough to satisfy creditor claims in full, the restructuring manager offers creditors to conclude the settlement agreement.

If a settlement agreement is not concluded, the commercial court finds the debtor bankrupt and opens the liquidation procedure.

## **Article 24. Alienation in the process of restructuring of the debtor's property by substituting assets**

1. In order to restore the solvency and fulfill the creditor claims the plan of reorganization may involve the alienation of assets by substituting the debtor's assets. Measures to ensure the creditors' claims on the debtor's property which is subject to alienation under the plan of restructuring are repealed by the commercial court.

2. The integrated property complex of the debtor or a part of the debtor's property defined by the reorganization plan with the corresponding (proportional) part of his commitments may be alienated by their transfer to business entity that is created by the debtor. Shares in the registered (joint) capital of such business entity are included in the debtor's property (asset substitution).

When creating a business entity it receives the debtor's belongings, and his property rights, the claims are withdrawn, and the debts are transferred for the claims of current creditors.

3. The volume of registered (joint) capital of the newly established business entity is defined as the difference between the cost of things, property rights, claims and the cost of debt by the creditor claims.

4. At alienation of the debtor's property as the integrated property complex by substitution of assets, all employment agreements (contracts), concluded before the date of alienation of the debtor's property by substitution of assets remain in force, and the rights and obligations of the employer are transferred to the newly created business entity.

5. In case of alienation of the debtor's property and transfer of the corresponding (proportional) part of his obligations by substituting the assets, employment agreements (contracts) concluded with employees whose work was used in production units, the property subject to transfer to the newly created business entity, remain in force, and the rights and obligations of employers transfer to a new legal entity.

6. The procedure of alienation of the stock (shares) in the registered (joint) capital of the newly established business entity shall be established by the Cabinet of Ministers of Ukraine.

One hundred percent of the stock (shares) in the registered (joint) capital of the newly established business entity to be sold at the auction or tender.

If the initial value of the stock (shares) is sufficient to satisfy creditor claims of the debtor, the corresponding (lesser) part of the debtor stock (shares) may be set for auction (tender).

7. By the time of formation of the management bodies of the newly created business entity after the sale of stock (shares) of its registered (joint) capital, the management powers are exercised by the restructuring manager.

8. If the debtor by the amount generated as a result of substitution of assets and selling them, fulfills the claims for creditors in full, the proceedings in the bankruptcy case is subject to termination by the commercial court at the request of the restructuring manager.

9. If the amount generated as a result of substitution of assets and their sales is not sufficient to satisfy creditors in full, the restructuring manager offers the creditors to conclude the settlement agreement.

## **Article 25. Sale in the process of restructuring of a part of the debtor's property**

1. In order to restore solvency of the debtor and fulfill creditor's claims, the reorganization plan may involve the sale of the debtor's property at an open auction, in a competition.

Sales in the procedure of the debtor's reorganization cover only the property specified in the reorganization plan approved in the established order.

Measures to ensure the creditors' claims in respect of a part of the debtor's property subject to sale in accordance with the plan of reorganization are removed by the commercial court's ruling.

2. Sale of the part of the debtor's property in the course of the debtor's restructuring procedure shall be performed in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

3. Property of the debtor, on which circulation the restrictions were imposed, is sold at a closed auction. The closed auction involves persons who under the legislation may have the mentioned property owned or under other property rights.

4. The winning party must pay the debtor's property selling price within the period prescribed by the protocol or sales agreement, but not later than one month after the date of the auction.

5. The property of the debtor that was not sold in the first auction is put up for another auction, unless otherwise provided by the reorganization plan. The property that was not sold at another auction may be sold by the restructuring manager with the consent of the committee of creditors pursuant to the sales contract concluded without tenders.

### **Article 26. Restructuring manager's report**

1. In fifteen days before the expiration of the procedure of restructuring, set by the restructuring plan, and if there are grounds for early termination of the restructuring procedure the restructuring manager must provide a written report to the creditors committee and committee members informing of the time and place of the meeting of the creditors committee.

2. Restructuring manager's report should include:

debtor's balance of the last reporting date;

debtor's profit and loss account;

information about the presence of cash of the debtor that could be available to satisfy creditors claims;

information about the debtor's accounts receivable at the reporting date and unfulfilled claim rights of the debtor;

the status of the debtor's accounts payable at the reporting date.

3. The report includes evidence of meeting the claims of bankruptcy creditors according to the register.

Along with the report, the restructuring manager makes one of the following proposals to the creditors committee:

on the decision to early terminate restructuring procedure in connection with the restoration of solvency of the debtor;

on the decision to terminate restructuring procedures and concluding of settlement agreement;

on appeal to the commercial court with a request for continuation of restructuring;

on appeal prior to expiry of the restructuring procedure specified in the restructuring plan to the commercial court with the petition for recognition of the debtor bankrupt and opening of liquidation procedure.

4. The report of the restructuring manager should be reviewed by the creditors committee within ten days from the date of receipt and no later than the expiration of the restructuring procedure specified in the restructuring plan.

5. Following consideration of the report, the committee of creditors decide on applying to the commercial court with a petition to:

terminate readjustment procedure in connection with reorganization plan and restoration of the debtor's solvency;

extend the period of restructuring procedure;

termination of restructuring procedure, the recognition of the debtor bankrupt and opening of the liquidation procedure;

termination of the restructuring procedure and making a settlement agreement.

In the event of circumstances that constitute grounds for termination of restructuring procedure, the creditors committee may adopt a decision in the absence of the restructuring manager's report.

6. If the creditors committee has not adopted any of the solutions identified in part 5 of this Article or the decision is not filed to the commercial court before the expiry of restructuring procedure specified in the restructuring plan or within fifteen days of emergence of any reasons for its early termination, the commercial court is considering the termination of proceedings in the bankruptcy case or on the recognition of the debtor bankrupt, and opening the liquidation procedure in the manner prescribed by this Law.

7. The report of the restructuring manager, reviewed by the creditors committee and the protocol of the meeting within five days after the date of the meeting is sent to the commercial court.

The register of creditors' claims is added to the report of the restructuring manager and, if any, claims of creditors who voted against the decision taken by the creditors committee or did not participate in voting.

8. The report of the restructuring manager and claims of creditors are reviewed at a meeting of the commercial court. The restructuring manager and the creditors who filed the complaint are notified of time and place of review.

9. If the creditors committee decided to terminate the restructuring procedure in connection with accomplishment of the reorganization plan and the restoration of the debtor's solvency, the restructuring manager's report is to be approved by the commercial court, unless otherwise stipulated in this Law.

In case of the commercial court supports the validity of claims of creditors, the commercial court may refuse to approve the manager's report.

10. A ruling is made on approval of the manager's report or refusal to approve it or to continue restructuring, or approval of settlement agreement, which may be appealed in due course.

11. If payment to creditors is not carried out in the terms envisaged by the plan of reorganization and in the absence of a request of the creditors committee on the extension of the terms suggested by the plan of restructuring, and making appropriate changes to the plan of reorganization the commercial court declares the debtor's bankrupt and opens the liquidation procedure.

12. Extension of the restructuring procedures within the final terms of restructuring as defined by this Law is carried out by the commercial court after making changes (additions) to the debtor's reorganization plan. Changes to the plan of reorganization are approved by the creditors committee and approved by the commercial court in accordance with this Law.

13. Settlements with creditors, whose claims are included in the register, are held by the restructuring manager from the date specified in the restructuring plan approved by the commercial court, in the order of priority established by Article 34 of this Law.

14. A copy of the ruling of the commercial court and the manager's report are forwarded to the parties in the case, other participants of proceedings, state body on bankruptcy issues.

### **Section III LIQUIDATION PROCEDURE**

#### **Article 27. Resolution on declaring the debtor bankrupt and opening of liquidation procedures**

1. In cases envisaged by this Law, the commercial court shall adopt a resolution to declare the debtor bankrupt and opens the liquidation procedure.

2. The term of the liquidation procedure may not exceed twelve months. The commercial court may extend this period by six months, unless otherwise stipulated in this Law.

3. The commercial court shall not make the resolution on declaring of the debtor bankrupt and open the liquidation procedure for the debtor to which the liquidation procedure is prohibited in accordance with applicable law.

#### **Article 28. The consequences of declaring the debtor bankrupt**

1. On the day of the decision by the commercial court on declaring the debtor bankrupt or opening of liquidation procedure:

bankrupt's economic activity stops except for conclusion and fulfillment of contracts aimed at protection of the bankrupt's property or ensuring its protection (maintenance) in the proper condition, contracts for lease of temporarily unused property for the period until its sale in the course of the liquidation procedure, etc;

deadline for fulfillment of all monetary obligations of the bankrupt and the obligation to pay insurance contributions for compulsory pension insurance and other forms of compulsory social security, taxes and duties (mandatory payments) is deemed to have come;

accruing of penalties (fines, penalties) stops, including interest and other economic sanctions on all types of debts of the bankrupt;

information about the financial situation of the bankrupt can no longer be confidential or constitute a commercial secret;

agreements related to alienation of assets of the bankrupt or transfer of its property to third parties is allowed in the manner prescribed by this section;

arrest imposed on the debtor's property who has been declared bankrupt is abolished, or other restrictions on the disposal of such property of the debtor. Imposition of new arrests or other restrictions on the disposition of property of the bankrupt is not allowed;

claims for the obligations of the debtor declared bankrupt, which arose during the bankruptcy proceedings can be produced only within the liquidation procedure;

fulfillment of obligations of the debtor declared bankrupt, is made in the manner prescribed by this section.

2. On the day of the commercial court's decision on the declaring the debtor bankrupt and opening of the liquidation procedure the powers of bankrupt's management bodies and their authority to dispose of his property are terminated, if not already, the bankrupt's manager shall retire from office due to bankruptcy, that should be followed by an entry in his employment record, and the authority of the owner (owners) of property of the bankrupt is terminated if this has not been done before.

3. In order to find creditors, the notice on declaring the debtor bankrupt and opening of liquidation procedure shall be published on the official web page of the Supreme Economic Court of Ukraine within one day of the adoption of the resolution.

4. Notice on declaring the debtor bankrupt and on opening of the liquidation procedure should include:

- name and other details of the debtor declared bankrupt;
- name of the commercial court, reviewing the bankruptcy case;
- the date of the commercial court's decision on the recognition of the debtor bankrupt and opening of liquidation procedure;
- information about the receiver (liquidation board).

5. Information about initiation of proceedings in the bankruptcy case may be additionally promulgated on the official web page of the government authority on bankruptcy and in any other way not prohibited by law.

#### **Article 29. The functions of the commercial court in the liquidation procedure**

1. The commercial court in the resolution on declaring the debtor bankrupt and opening of the liquidation procedure shall appoint the receiver of the bankrupt meeting the requirements established in Article 4 of this Law from among the trustees, which information is provided in the established order by the state authority for bankruptcy to the Supreme Commercial Court of Ukraine, unless otherwise stipulated in this Law.

If the enterprise declared bankrupt had previously conducted the activity related to state secrets, the receiver for such enterprise shall be appointed with due account for the procedure set forth in paragraph three of part one of Article 10 of this Law.

2. At the request of the receiver, agreed with the committee of creditors, the commercial court appoints members of the liquidation board.

3. Receiver (liquidation board) performs their duties until the completion of the liquidation procedure in the manner prescribed by this Law and other regulations.

4. The commercial court reviews complaints against actions of the members of the liquidation procedure and exercises other powers stipulated in this Law within the liquidation procedure.

#### **Article 30. Authority of liquidator and members of the liquidation commission**

1. Since the date of appointment the liquidator shall exercise the following authority:

- take the debtor's property onto the books and make arrangements to ensure its safekeeping;
- manage and administer the bankrupt's property;
- make inventory and appraise the bankrupt's property in accordance with the law;
- analyze financial situation of the bankrupt;
- exercise the office of the bankrupt's manager (administrative bodies);
- be in charge of the liquidation commission and form the liquidation pool;
- lay claims to their parties as to repayment of the accounts receivable to the bankrupt;

is entitled to receive a loan for paying dismissal compensation to the employees that resign due to the bankrupt's liquidation first of all payable in accordance with Article 34 of this Law using the funds received from disposal of the bankrupt's property;

notify the bankrupt's employees of the dismissal and exercise it in compliance with the labour laws of Ukraine from the date of adjudication of the bankrupt and initiation of the liquidation procedure. The payment of dismissal compensation to the bankrupt's dismissed employees shall be made by the liquidators first of all using the funds obtained from disposing of the bankrupt's property or a loan awarded for this purpose;

raise, in accordance with the applicable procedure, objections to the claims lodged by the current creditors to the debtor in respect of the outstanding liabilities as occurred during the bankruptcy proceedings and;

petition the court on invalidation of the debtor's contracts;

take measures to search, identify and reclaim the bankrupt's property possessed by any third party;

transfer the bankrupt's documents for keeping in a manner prescribed by the law that are subject to mandatory custody in accordance with regulatory legal acts;

dispose of the bankrupt's property to satisfy the demands included in the creditor's register in an manner prescribed by this Law;

notify the state bankruptcy authority of its appointment within ten days from the date of economic court ruling and provide the information to the state bankruptcy authority for maintaining a uniform database of bankrupt enterprises;

if the bankrupt conducts the activity related to state secrets, take actions to liquidate the security and secrecy body. For this purpose the receiver shall determine the composition of the liquidation committee of the security and secrecy body, which shall be formed in accordance with the procedure established by legislation;

exercise any other authority as provided for by this Law.

2. Since the liquidator's appointment all administrative rights (of managing bodies) of the bankrupt legal entity are transferred to the former.

3. The liquidator (bankruptcy commissioner) is entitled to request the duplicate seal and stamps if lost.

4. In exercising its office the liquidator shall have the right to lodge claims to any third party which in accordance with the effective laws incur subsidiary liability for the debtor's obligations in connection with the making its bankrupt. The amount of the said claims shall be established on the basis of difference between the amount of creditor claims and the liquidation pool.

The sums collected shall be included in the liquidation pool and can be utilized to satisfy the creditor claims in the order of precedence as prescribed by Article 34 of this Law.

5. Within fifteen days from the liquidator's appointment the respective officials of the bankrupt are obliged to transfer accounting documents, seals and stamps, material and other valuables to the former. In case of evasion of fulfillment of the said obligations the respective officials shall be held liable in accordance with the laws of Ukraine.

6. The liquidator is obliged to use only one debtor's account with the banking institution during the liquidation procedure. Any other accounts disclosed during the liquidation procedure are to be closed by the liquidator. The fund balance are to be remitted to the main debtor's account.

7. The funds received during the liquidation procedure are credited to the main account of the debtor. The payments to creditors shall be made from the main account as set forth in Article 34 of this Law.

8. Payments to creditors, current payments and payments of expenses relating to the liquidation procedure are made from the main account of the bankrupt.

9. The liquidator shall at least once a month submit information to the creditor committee as regards its activities, financial situation and property of the debtor on the date of initiating the liquidation procedure and utilization of the debtor funds if the liquidation procedure is carried out, as well as other relevant information as requested by the creditor committee.

10. The liquidator is obliged to provide relevant information on the liquidation procedure as requested by the economic court and bankruptcy authority.

11. The acts of liquidator (liquidation commission) can be appealed against to the economic court by the owner of the bankrupt's property (managing authority of public property items); entity liable for the bankrupt's obligations; each creditor separately or creditor committee; entity referring to its rights of the owner or any other reason as provided for by the law or contract shall appeal against the legitimacy of classifying the property assets or funds as the liquidation pool.

12. In the event of nonperformance or improper performance of obligations by the liquidator, the economic court on application of the creditor committee may terminate authority of the liquidator and appoint a new liquidator as proposed by the creditor committee.

13. The liquidation commission shall consist of representatives of creditors, authorized person of shareholders or members of a limited liability company or additional responsibility society, financial bodies and trade union, and well as representatives of the insurance supervision authority, Antimonopoly Committee of Ukraine, bankruptcy authority and local authorities if required.

### **Article 31. Liquidation pool**

1. All types of property assets (property and property rights) beneficially owned or controlled by the bankrupt as of the date of liquidation procedure and discovered in the course of liquidation procedure shall be included in the liquidation pool except for housing objects including dormitories, preschool institutions and objects of public utilities infrastructure that shall be transferred to communal property of the respective territorial communities without any accessory conditions and financed in a prescribed manner.

During liquidation of the security and secrecy body, material carriers of secret information (technical documentation, products, their developmental prototypes, etc.) shall be transferred to the customer in accordance with the agreement on execution of the appropriate works, A written act of transfer of material carriers of secret information to the customer shall be drawn up and approved with the corresponding regional body of the Security Service of Ukraine.

2. Items defined by the generic properties that are beneficially owned by the bankrupt should be included in the liquidation pool.

3. Individually defined items that belong to the bankrupt on the basis of property rights except for right of ownership and complete economic control, cannot be included in the liquidation pool.

4. The bankrupt's property which is a subject of pledge shall be included in the liquidation pool however not used exclusively for first satisfaction of the pledgee claims.

5. If the off-circulation property is included in the bankrupt's property, the liquidator is obliged to transfer it to other entities in a prescribed manner.

6. The liquidator, upon identification of the portion belonging to other bankrupt in a common property, shall raise the question of separating such portion.

7. The assets included in settlement of mortgage bonds shall not be included in the liquidation pool of the issuer and mortgage cover administrator. Such assets are disposed of in a manner prescribed by the Law of Ukraine on Mortgage Bonds including the compulsory procedure.

### **Article 32. Appraisal of the bankrupt's property**

1. The property to be disposed under the liquidation procedure shall be appraised in accordance with procedure established by the legislation on appraisal, property rights and professional appraisal activities.

During the sale of the bankrupt's property at public tender (auction) the cost of the property appraised shall be its initial cost.

2. To appraise the property the liquidator shall involve appraisal entities on the contractual basis subject to payment of their at the expense of the bankrupt unless otherwise approved by the creditor committee.

In case the preliminary appraisal carried out in connection with the bankruptcy proceedings is effective on the date of liquidation procedure, the liquidator shall use such appraisal to sell the bankrupt's property.

### **Article 33. Disposal of the bankrupt's property**

1. Upon taking inventory and evaluation of the bankrupt's property the liquidator starts the sale of bankrupt's property at public (private) tender (auction) or in a competition in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

2. The bankrupt's property, circulation of which is restricted, shall be sold at a private tender

3. Assignment of claim of the bankrupt shall be put up for tender by the receiver in accordance with the provisions of the first part of this Article.

4. Securities belonging to the bankrupt on the basis of ownership right are to be sold with due account for the legislation on securities.

5. Sale of the bankrupt's property shall be formalized by purchase and sale agreements concluded between the receiver and the buyer in accordance with legislation.

### **Article 34. Order of satisfying creditor claims**

1. Funds received from the sale of bankrupt's property, are directed to satisfy creditor claims in a manner prescribed by this article:

1) the following claims are satisfied out of turn: claims regarding the payment of wage arrears to currently employed and dismissed employees of the bankrupt, pecuniary compensation for the unused vacation days and additional vacation to employees with children, other funds payable to employees in connection with the paid vacation (idle time compensation through no fault of the employee, guarantees for the time of performance of public or social obligations, guarantees and compensations for business trips, guarantees for employees sent to develop their vocational competence, guarantees for donors, guarantees for employees sent for examination at medical facility, social benefits in connection with temporary loss of capacity to labour at the corporate cost etc), and dismissal compensation payable to employees in connection with termination of labour relations including the reimbursement of loan received for these purposes;

2) the following claims are satisfied on the first priority basis:

- a) claims secured by pledge;
- b) expenses of the Deposit Guarantee Fund associated with acquisition of creditor rights in relation to the bank - the entire sum of indemnity for individual deposits;
- c) creditor claims under insurance agreements;
- d) expenses relating to bankruptcy proceedings in the economic court and work of the receiver (liquidation commission) including:
  - state tax expenses;
  - expenses relating to publishing information on disposal of the bankrupt's property in official printed media;
  - expenses of the bankruptcy commissioner (property administrator, reorganization manager, liquidator) related to maintenance and keeping the bankrupt's assets;
  - expenses of creditors relating to audit if such was held upon court order at their expense;
  - expenses relating to remuneration of bankruptcy commissioners (property administrator, reorganization manager, liquidator).

3) on the second priority basis - the claims arising from the obligations arising as consequence of causing harm to life and health of individuals, through capitalization of respective payments including those made to the Occupational Accidents and Professional Diseases Social Insurance Fund of Ukraine for individuals insured with this Fund subject to the procedure established by the Cabinet of Ministers of Ukraine, premium payment obligations for obligatory state social insurance, and the claims of individual grantors (depositors) of trust institutions or any other economic entities that attracted property (funds) of grantors (depositors);

4) on a third priority basis – tax and dues (compulsory payment) claims. Claims of the central executive body in charge of state reserve;

5) on a fourth priority basis – unsecured claims of creditors including creditor claims arising from the liabilities under the procedure of administration of debtor property or reorganization procedure;

6) on the fifth priority basis – claims to return staff members' contributions to the authorized fund of an enterprise;

7) on the fifth priority basis – any other claims.

2. The claims of each next priority shall be satisfied as funds are credited to the account from the disposal of the bankrupt's property after complete satisfaction of previous priority claims.

3. In the event of insufficient funds obtained from disposal of the bankrupt's property, the complete satisfaction of all requirements within one order the claims shall be satisfied in proportion to the amount of claims belonging to each creditor of the same order.

4. Should a creditor refuse from satisfaction of the claim recognized in the prescribed manner, the receiver (liquidation commission) does not include the amount of this creditor drawings.

5. Any claims

unsatisfied due to lack of the property are regarded as discharged.

6. In the event the economic court passes a judgement on liquidation of the bankrupt legal entity, the property remaining after satisfaction of the creditor claims shall be transferred to the owner or its authorized body, while the property of state enterprises shall be transferred to the privatization authority for decision about further disposal of such property.

## **Article 35. Liquidator's Report**

1. Having completed all settlements with creditors, the liquidator submits a report and liquidation balance to the economic court supplemented by:

inventory sheet based on results of taking inventory of the bankrupt's property and list of the liquidation pool;

information on disposing the liquidation pool items with reference to the purchase and sale contracts;

copies of sale contracts and property acceptance certificates;

creditor register with information on the creditor claims settled;

documents supporting the discharge of creditor claims;

reference by archive facility on acceptance of documents subject to long-term custody in accordance with the law.

After hearing the liquidator's report and opinions of the creditor committee the economic court shall approve the liquidator's report and liquidation balance.

The liquidator notifies bankruptcy authority on completion of the liquidation procedure.

2. If based on results of the liquidation procedure no property is left after satisfying the creditor's claims, the economic court passes the decision on liquidation of the bankrupt legal entity. The copy of this court decision is sent to the authority that registered the bankrupt legal entity and statistical office to exclude the legal entity from the United State Register of Enterprises and Organizations of Ukraine, and owner of the property and state tax authorities at the bankrupt's location.

3. If the liquidator fails to find any property assets that are subject to inclusion in the liquidation pool, it is obliged to submit the liquidation balance to the economic court testifying the absence of the bankrupt's property.

4. Should the economic court come to conclusion that the liquidator has failed to identify or dispose of the property assets of the bankrupt in full measure, the former shall pass a decision on appointing a new liquidator unless otherwise provided for by this Law.

The new liquidator shall become in charge of the liquidation commission and act in pursuance of this Law.

5. If the bankrupt's property is sufficient to satisfy creditor claims in full measure, the bankrupt shall be regarded as such free of any debts and may proceed with the its ordinary activities. In such case the liquidator within five days from passing the respective decision by the economic court shall notify an authority or its officer of the authority responsible for appointing the debtor's manager (of administrative bodies) and ensures the meeting of such bodies and continues to exercise the authority of manager (of administrative bodies) prior to their appointment in the prescribed manner. The economic court may pass a judgement on liquidation of the legal entity that is out of debts only if the balance of its property assets is less than required to continue economic activities in accordance with effective legislation.

## **Article 36. Dismissal of the debtor employees.**

### **Benefits and compensations for dismissed employees**

1. The debtor employees may be dismissed after instituting bankruptcy proceedings and appointment of property administrator in compliance with requirements of Labour Code of Ukraine with regard to peculiarities set forth by the Law.

2. The dismissal compensation for the debtor employees dismissed shall be paid by the liquidator in accordance with established procedure with regard to requirements of this Law.

3. The issues pertaining to job placement of the dismissed employees shall be settled in accordance with the Law of Ukraine on 'Employment of Population'. The dismissed employees of the debtor are covered by the guarantees stipulated by Article 31 of the Law.

#### **Article 37. Documents custody**

1. The liquidator shall ensure proper custody of all documents including financial and economic documents of the bankrupt during the liquidation procedure.

2. Prior to passing the court decision on liquidation of the bankrupt legal entity the liquidator is obliged to ensure safe custody of the achieve documents of the bankrupt and in consultation with the specially authorized central executive body in the area of archiving and record keeping or record office authorized thereby, determine the place of their further custody.

3. Specially authorized central executive body in archiving and record keeping or an authorized records office are obliged to accept archive documents of the bankrupt for custody without additional conditions.

### **Section IV AMICABLE AGREEMENT**

#### **Article 38. Amicable agreement and term of its conclusion**

1. In bankruptcy case an amicable agreement shall be understood as an agreement between a debtor and creditors as regards a deferral and (or) installment, as well as debtor debts forgiveness (write-off) by creditors, which shall be processed as an agreement between the parties.

2. An amicable agreement may be concluded at any stage of bankruptcy proceedings upon creation in the established order of debtor creditor committee and election of its chairman.

3. Decision on conclusion of amicable agreement on behalf of creditors shall be taken by creditor committee by a majority vote of committee member creditors and shall be deemed taken provided that all creditors, whose claims are secured by debtor property mortgage, expressed their written consent to conclusion of amicable agreement.

4. Decision on conclusion of the amicable agreement shall be taken on behalf of the debtor by the debtor manager or bankruptcy commissioner (reorganization manager, liquidator), which execute powers of debtor administration and debtor manager and signs it.

5. The chairman of the creditor committee shall sign the amicable agreement on behalf of creditors.

#### **Article 39. Terms of amicable agreement conclusion**

1. An amicable agreement may be concluded only as to the claims which are secured by mortgage, the second and the subsequent priority claims, as defined by Article 34 of this Law.

2. Where terms of amicable agreement, concluded pursuant to the provisions of Article 38 of this Law, provide for installment or deferral or forgiveness (write-off) of debts or a part thereof, a collection body must accept satisfaction of part of claims on taxes, duties (compulsory payments)

subject to terms of such amicable agreement in order to secure corporate recovery. In such a case a debt burden which incurred during the period, preceding three full calendar years before the date of submission of bankruptcy petition to economic court, shall be deemed uncollectible and written off, and tax liabilities or a debt burden, which incurred during the period of three past calendar years before the date of submission of bankruptcy petition to economic court, shall be spread (deferred) or written off subject to terms of amicable agreement. Mentioned amicable agreement shall be signed by the head of the relevant tax authority at the debtor's location.

Arrears of salary payment to working and dismissed employees of the bankrupt, monetary compensations of all unused days of annual vacation and additional vacation to employees that have children, other funds payable to employees in relation with paid absence at the workplace (payment for idle time for which the employee is not liable, guarantees for the period of execution of state or civil duties, guarantees and compensations for business trips, guarantees for employees going to improve their qualification, guarantees for donors, guarantees for the employees sent for examination to medical institutions, social payments because of temporary disability at the expense of the enterprise, etc.) and severance payment due to employees in relation with termination of labor relations are not subject to forgiveness (write-off) under the terms of amicable agreement.

Arrears of premium payment for compulsory state retirement insurance and other types of compulsory state social insurance are not subject to forgiveness (write-off) under the terms of amicable agreement.

3. Repayment of creditors' claims under the amicable agreement shall be performed pursuant to the order of precedence established by Article 34 of this Law.

4. The terms for creditors who did not participate in voting or voted against conclusion of amicable agreement, can not be set worse than those for the creditors who expressed their consent for conclusion of amicable agreement, whose claims are attributed to the same priority.

#### **Article 40. Conclusion and validation of the amicable agreement**

1. The amicable agreement shall be concluded in writing and is subject to economic court approval, which is noted in economic court determination on termination of bankruptcy proceedings.

2. The amicable agreement shall become operative since the date of its approval by economic court and is compulsory for a debtor (bankrupt), the creditors, whose claims are secured by mortgage, the creditors of the second and the subsequent priorities.

3. Unilateral refusal from the amicable agreement is not allowed.

4. Amicable agreement shall contain provisions for the following:

- amount, procedure and period for discharge of debtor's obligations;
- deferral, installment or forgiveness (write-off) of debts or a part thereof.

In addition to the above, amicable agreement may contain the terms of the following:

- discharge of debtor's obligations by third parties;
- exchange of creditors' claims for debtor's assets or its corporate rights;
- creditors' claims satisfaction in other ways, not contravening the Law.

#### **Article 41. Consideration of amicable agreement at economic court**

1. Within five days from the date of amicable agreement conclusion a party to amicable agreement shall file an application with the economic court on its approval.

Amicable agreement approval application shall be attended with the following:

- text of amicable agreement;
- record of creditor committee session, where decision on conclusion of amicable agreement was taken;

- list of creditors, including postal address, taxpayer identification number (code) and outstanding amount;

- debtor's obligations related to repayment of wage arrears to working and dismissed employees of the bankrupt, monetary compensations of all unused days of annual vacation and additional vacation to employees that have children, other funds payable to employees in relation with paid absence at the workplace (payment for idle time for which the employee is not liable, guarantees for the period of execution of state or civil duties, guarantees and compensations for business trips, guarantees for employees going to improve their qualification, guarantees for donors, guarantees for the employees sent for examination to medical institutions, social payments because of temporary disability at the expense of the enterprise, etc.) and severance payment due to employees in relation with termination of labor relations;

- debtor's commitment as to recovery of all the costs, which are provided for preferential reimbursement according to Article 34 of this Law, except for creditors' claims, which are secured by mortgage;

- written contestations of creditors, who did not participate in voting on conclusion of amicable agreement, if any.

2. Economic court shall inform the parties to amicable agreement of the date of amicable agreement consideration.

Economic court is obliged to listen to every creditor present at the session, who has objections arisen as regards conclusion of amicable agreement, even if he voted for amicable agreement conclusion at creditor committee session.

3. Economic court shall dismiss amicable agreement conclusion in case of the following:

- breach of the order of amicable agreement conclusion, established by this Law;

- if the terms of amicable agreement contradict legislation.

4. Economic court passes a judgement on dismissal of amicable agreement conclusion, which may be appealed in the established order.

In the event of passing by the economic court a judgement on dismissal of amicable agreement conclusion, amicable agreement shall be deemed unconcluded.

5. Since the day of amicable agreement approval a debtor begins discharging of creditors' claims in accordance with the terms of amicable agreement.

6. Approval of amicable agreement by economic court shall be a reason for suspension of bankruptcy proceedings.

7. Within five days upon the date of approval of amicable agreement by economic court, reorganization manager or liquidator shall notify of the above the body or the official of the body's, authorized to appoint a debtor's (administration) manager, as appropriate, provides for holding of a meeting or a session of the relevant body and continues execution of powers of the debtor's (administration) manager till the debtor's (administration) manager is appointed in due course.

8. Passing by the economic court of a judgement on dismissal of amicable agreement conclusion shall not prevent from conclusion of a new amicable agreement with other conditions.

## **Article 42. Nullity of amicable agreement or its termination.**

### **Consequences of non-performance of amicable agreement**

1. Upon the application of any of creditors, amicable agreement may be invalidated by the economic court, should there be any grounds for agreement invalidation, which are provided by the civil legislation of Ukraine.

2. Amicable agreement invalidation shall be the reason for resumption of bankruptcy proceedings, which will be a judgement passed about by the economic court, which may be appealed in the established order.

3. Claims of creditors, under which calculations were made in accordance with the terms of amicable agreement, shall be deemed settled.

4. Notice of debtor's bankruptcy proceedings resumption shall be published in official organs.

5. Amicable agreement may be terminated according to the economic court decision in case of non-performance of amicable agreement by debtor as to not less than the third part of the creditor's claims.

6. Termination of amicable agreement by the economic court as to individual creditor does not entail its termination as regards the other creditors.

7. Should amicable agreement be invalidated or terminated, the creditors' claims, as to which a deferral and (or) installment of payments or forgiveness (write-off) of debts was granted, shall be restored to the full extent in its aggrieved part.

8. Should amicable agreement be not performed, the creditors may present their claims to debtor to the extent, provided for by this amicable agreement. In case of commencement of the same debtor bankruptcy proceedings, the extent of the creditors' claims, as to which the amicable agreement was concluded, shall be determined within the limits, prescribed by the mentioned amicable agreement.

## **Section V**

### **DISCONTINUANCE OF BANKRUPTCY PROCEEDINGS**

#### **Article 43. Discontinuance of bankruptcy proceedings**

1. Economic court discontinuances bankruptcy proceedings if:

1) a debtor is not included in Unified State Register of Enterprises and Organizations of Ukraine or in Register of Entrepreneurs;

2) petition in bankruptcy of liquidated or reorganized (except reorganization in form of transformation) legal entity is applied;

3) there is a bankruptcy case of the same debtor in proceedings of economic court;

4) the report of manager of debtor's reorganization is approved in a manner stipulated by this Law;

5) an amicable settlement is approved;

6) liquidator's report is approved in a manner prescribed by Article 36 of this Law;

7) a debtor fulfilled all obligations to creditors;

8) creditors did not lay claims to debtor after initiation of bankruptcy proceedings upon petition by debtor;

9) in accordance with legislation the case must not be tried in economic courts of Ukraine.

2. Resolution of discontinuance of bankruptcy proceedings that can be appealed according to established procedure is passed.

3. Bankruptcy proceedings can be discontinued in cases specified by paragraphs 1, 2, 5 and 9 of the first section of this article at all stages of bankruptcy proceedings, that is both before and after debtor is declared bankrupt; in cases specified by paragraphs 3, 4, 7 and 8 – only before the debtor is declared bankrupt, and in case specified by paragraph 6 – only after the debtor is declared bankrupt.

4. In case specified by paragraph 9 of first section of this article, court sends to creditors, who claimed demands to debtor in bankruptcy case, enforcement documents to the amount of debt which is not exacted together with a copy of resolution on discontinuance of bankruptcy proceedings.

**Section VI**  
**PECULIARITIES OF BANKRUPTCY OF CERTAIN**  
**CATEGORIES OF ECONOMIC ENTITIES**

**Article 44. General provisions**

Relations connected with bankruptcy of city-forming extremely dangerous agricultural enterprises, enterprises of public sector of economy, insurers, others categories of economic entities are regulated by this Law with due account for peculiarities stipulated by this section.

**Article 45. Peculiarities of bankruptcy of city-forming enterprises**

1. For the purposes of this Law, those legal entities, which number of employees including members of their families amounts to no less than half of population size of administrative-territorial unit in which such legal entity is situated, are acknowledged to be the city-forming enterprises.

Provisions of this article are also applied to enterprises, where number of employees exceeds five thousand persons.

2. During bankruptcy proceedings of city-forming enterprise, local authority of the corresponding territorial community of administrative-territorial unit is acknowledged to be the member of bankruptcy proceedings.

Central bodies of executive power may also be acknowledged by the economic court to be the members of bankruptcy proceedings.

The debtor produces to economic court proofs confirming debtor's belonging to city-forming enterprises.

3. In case creditor committee had not adopted a decision on debtor's reorganization, economic court is entitled to pass resolution about debtor's reorganization on petition of local authority or corresponding central body of executive power, who are members of bankruptcy proceedings, provided they've concluded agreement with creditors about warranty for debtor's obligations.

Agreement of warranty for debtor's obligations is concluded and signed by authorized persons of local authorities or central executive bodies.

4. Local authority or central executive body who warranted for debtor's obligations have right to propose to economic court a candidate of reorganization manager, investor.

In case of debtor's failure to fulfill obligations, warrantors bear joint liability for debtor's obligations to his/her creditors.

5. The procedure of reorganization of city-forming enterprise upon petition of local authority can be prolonged by economic court for one year.

Plan of financial recovery of city-forming enterprise is a ground for continuation of reorganization of city-forming enterprise for a period stipulated by the first paragraph of this section. Plan of financial recovery of city-forming enterprise may provide for import of investments, work placement of its employees, creation of new work positions and other means to recover paying capacity of debtor of city-forming enterprise.

6. The period of reorganization procedure may be extended by the economic court for up to 10 years under petition of local authority or central body of executive power, who are parties to bankruptcy proceedings, provided they have concluded agreement of warranty for debtor's obligations. In this case debtor and his/her warrantor are obliged to settle with creditors during three years provided other is not stipulated by this Law.

Failure to fulfill requirements of this section is a reason for declaring debtor a bankrupt and beginning of liquidation procedure.

7. The Cabinet of Ministers of Ukraine or local authorities represented by their authorized bodies have right to settle all creditors in the order stipulated by this Law any time before the end of procedure of city-forming enterprise reorganization.

Meeting requirements of creditors is fulfilled in order of priority according to Article 35 of this Law.

Bankruptcy proceedings discontinues, provided creditor claims on monetary obligations and obligations concerning premium payment for compulsory state pension insurance and other kinds of compulsory state social insurance, taxes and charges (compulsory payment) are fulfilled in order stipulated by this Law.

8. Alienation of debtor's property as integral property complex by replacing assets, part of property assets with corresponding (proportional) part of obligations by replacing assets or alienation of part of his/her property in accordance with legislation, may be conducted to fulfill creditor claims in reorganization procedure.

Upon existence of petition of local authority or central body of executive power, who are members of bankruptcy proceedings, sale of parts (shares) in registered (jointed) capital of newly made economic society is conducted by means of holding competitions.

9. Compulsory conditions of competition are saving work positions for no less than 70 percent of employees, working at enterprise at a time of its sale; buyer's obligations concerning provision of reeducation or job placement of employees of enterprise in accordance with legislation in case there is a change of enterprise activity profile.

Other conditions of competition can be established solely in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

10. If the stated in paragraph two of section eight of this article of petition had not been submitted or part (shares) in registered (jointed) capital of newly made economic society had not been sold at competition they are liable to sale at auction.

11. If property of a debtor, who is declared a bankrupt is enough to create economic society and replacing of assets had not been held during procedure of reorganization, liquidator must hold such replacing before the beginning of disposition of property, in order specified by Article 24 of this Law.

#### **Article 46. Peculiarities of bankruptcy of extremely dangerous enterprises**

1. For the purposes of this Law, extremely dangerous enterprises are enterprises of coal, mineral resource, nuclear, chemical, chemical and metallurgy, oil-refining and other industries, determined by corresponding decisions of Cabinet of Ministers of Ukraine, discontinuation of activities of which demands realization of special measures concerning prevention of harm of people's life and health, property, buildings, natural environment.

2. During bankruptcy proceedings of extremely dangerous enterprise, corresponding local authority as well as central body of executive power to the competence of which refers debtor's field of activity as well as if needed state body concerning emergency situation and concerning cases of

population protection from consequences of Chernobyl disaster, concerning protection of environment and nuclear security, concerning questions of geology and subsurface use are acknowledged to be members of bankruptcy proceedings.

Central bodies of executive power may also be acknowledged by the economic court to be the members of bankruptcy proceedings of extremely dangerous enterprise.

The debtor produces to economic court proofs confirming debtor's belonging to extremely dangerous enterprises.

3. In case creditor committee had not adopted a decision on debtor's reorganization, economic court is entitled to pass resolution about debtor's reorganization on petition of local authority or corresponding central body of executive power, who are members of bankruptcy proceedings, provided they had concluded agreement with creditors about warranty for debtor's obligations.

Agreement of warranty for debtor's obligations is concluded and signed by authorized persons of local authorities or central bodies of executive power.

4. Local authority or central body of executive power, who warranted for debtor's obligations have right to propose to economic court a candidate of reorganization manager, investor.

In case of debtor's failure to fulfill obligations, warrantors bear joint liability for debtor's obligations to his/her creditors.

5. The procedure of reorganization of extremely dangerous enterprise upon petition of local authority can be prolonged by economic court for one year.

Plan of financial recovery of extremely dangerous enterprise is a ground for continuation of reorganization of extremely dangerous enterprise for a period stipulated by the first paragraph of this section. Plan of financial recovery of extremely dangerous enterprise may provide for import of investments, work placement of its employees, creation of new work positions and other means to recover paying capacity of debtor of extremely dangerous enterprise. Plan of financial recovery of extremely dangerous enterprise must also include measures for maintaining safety of production activity, labour protection and prevention of causing possible harm to people's life and health, property, buildings, natural environment.

6. The period of reorganization of extremely dangerous enterprise may be extended by the economic court for up to 10 years under petition of local authority or central body of executive power, who are members of bankruptcy proceedings, provided they had concluded agreement of warranty for debtor's obligations. In this case debtor and his/her warrantor are obliged to settle with creditors during three years provided other is not stipulated by this Law.

Failure to fulfill requirements of this section is a reason for declaring debtor a bankrupt and beginning of liquidation procedure.

7. Cabinet of Ministers of Ukraine or local authorities represented by their authorized bodies have right to settle all creditors in the order stipulated by this Law any time before the end of procedure of extremely dangerous enterprise reorganization.

Meeting requirements of creditors is fulfilled in order of priority according to Article 34 of this Law.

Bankruptcy proceedings discontinues, provided creditor claims on money obligations and obligations concerning premium payment for compulsory state pension insurance and other kinds of compulsory state social insurance, taxes and charges (compulsory payment) are fulfilled in order stipulated by this Law.

8. Alienation of debtor's property solely as integral property complex by replacing assets in order, stipulated by article 24 of this law may be conducted to fulfill creditor claims in reorganization procedure. In addition shares (parts) in registered (jointed) capital of newly made

economic society are liable to sale at competition in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

9. Compulsory conditions of competition are:

saving conditions concerning maintaining safety of production activity, labour protection and prevention of causing possible harm to people's life and health, property, buildings, natural environment;

saving work positions for no less than 70 percent of employees, working at enterprise at a time of its sale;

obligations of buyer concerning provision of reeducation or work placement of employees and prevention of causing possible harm to people's life and health, property, buildings, natural environment in case there is a change of enterprise activity profile.

Other conditions of competition can be established solely in accordance with the procedure established by the Cabinet of Ministers of Ukraine..

In case of failure to fulfill determined requirements of competition, which are included in conditions of sale and purchase of debtor's property agreement as integral property complex, agreement shall be dissolved in accordance with the established procedure.

10. Extremely dangerous enterprises are not liable to sale by auction.

11. Creditors' demands are fulfilled in order of priority, stipulated by Article 34 of this Law with due account for peculiarities determined by this section, that is: demands concerning compensation for expenses on measures for prevention of causing possible harm to people's life and health, property, buildings, natural environment are fulfilled on a third-priority basis in order set by the Cabinet of Ministers of Ukraine.

#### **Article 47. Peculiarities of bankruptcy of agricultural enterprises**

1. For the purposes of this Law agricultural enterprises are understood to be legal entities, core business of which is cultivation (manufacture, production and processing) of agricultural products, whose revenues from the sales of the cultivated (manufactured and processed) products constitute not less than fifty percent of the revenues total.

2. Peculiarities of agricultural enterprises' bankruptcy, prescribed by this Law, are applied also to fisheries, fish farms, revenues from the sales of the cultivated (manufactured and processed) products and fished-out aquatic biological resources constitute not less than fifty percent of the revenues total.

3. In the case of the sale of the items of immovable property, which are used for the purposes of agricultural production and are in the ownership of the agricultural enterprise, that is recognized as a bankrupt, under otherwise equal conditions the dominant right for the purchase of the stated items belongs to agricultural and farming enterprises, located in the relevant locality.

4. In the case of agricultural enterprise liquidation, subsequent to its recognition as a bankrupt the decision concerning land plots, that are in the ownership of such enterprise, assigned to it for permanent or temporary use, including under lease, is made according to Land Code of Ukraine.

5. While introducing the procedure of debtor's assets administration the analysis of the agricultural enterprise financial standing should be done in view of seasonality of agricultural production and its dependence on climatic and natural conditions, and also the possibility of satisfying the debtors' claims through revenues, which can be raised by the agricultural enterprise on completion of the relevant period of agricultural works.

6. The decision to appeal the request about agricultural enterprises' reorganization to economic court is rendered by the creditors' committee with the participation of the local government body's representative of the relevant territorial community.

The reorganization of the agricultural enterprise is introduced for the term up to the expiration of the relevant agricultural works' period, taking into account the time, necessary for the sales of the cultivated (manufactured and processed) agricultural products. The stated period can't exceed fifteen months.

7. In the event if over the reorganization period the financial standing of the agricultural enterprise changed for the worse as a result of a natural calamity, epizootics and other unfavorable conditions, the reorganization period, prescribed by the part six of this article, can be prolonged for one year.

#### **Article 48. Peculiarities of insurers' bankruptcy**

1. When considering the case of insurer's bankruptcy the governmental body in the cases for supervision of insurance activity is recognized as the participant of the bankruptcy proceeding.

2. Filing of a petition in the insurer's bankruptcy case can be fulfilled to the economic court by the debtor, creditor or another authorized governmental body.

3. The alienation of the insurer-debtor's property as an integral property complex is carried out through reorganization procedure according to the rules, prescribed by Articles 23, 24 of this Law.

In the exercise of the liquidation procedure an integral property complex of the insurer can be sold only with the buyer's consent to undertake the insurer-debtor's obligations through insurance agreements, according to which an insurance event haven't occurred by the day of the insurer's recognition as a bankrupt.

4. The buyer of an integral property complex can be only insurer.

5. In the event of the insurer's integral property complex sale in the exercise of reorganization procedure the buyer acquires all of the rights and obligations through insurance agreements, according to which an insurance event haven't occurred by the date of the property's sale.

6. In the event of the insurer's recognition as a bankrupt by the economic court and the beginning of the liquidation procedure all insurance agreements, concluded by such insurer, according to which an insurance event haven't occurred by the date of the stated decision making, are terminated, except the cases, prescribed by the part three of this article.

7. Insurers by the insurance agreements, validity periods of which terminate on the grounds, specified by the part six of this article, have the right to claim the partial recovery of the paid insurance premium to the insurer proportionally to the divide between the term, for which the insurance agreement was concluded, and the term, during which the insurance agreement was factually in force, unless otherwise is provided for by law.

8. Insurers by the insurance agreements, according to which an insurance event have occurred by the day of the economic court decree about the insurer's recognition as a bankrupt and the introduction of liquidation procedure, have the right to claim insurance indemnities.

9. In the event of the insurer's recognition as a bankrupt by the economic court and the introduction of liquidation procedure creditors' claims by the insurance agreements of the first priority are subject to satisfaction in the following order:

on the first-priority basis– claims by personal insurance agreements, provided by the part eight of this article;

on the second-priority basis – claims of individuals by other insurance agreements, provided by the part eight of this article;

on the third-priority basis – claims by personal insurance agreements, provided by the part seven of this article;

on the forth-priority basis – claims of individuals by other insurance agreements, provided by the part seven of this article;

on the fifth-priority basis – claims of legal entities by other insurance agreements, provided by the part eight of this article;

on the sixth-priority basis – claims of legal entities by other insurance agreements, provided by the part seven of this article.

#### **Article 49. Peculiarities of bankruptcy of the securities market professional participants**

1. When considering the case of bankruptcy of the organization or the sole proprietor, that are professional participants of the securities market, the governmental body on the questions of securities market regulation is recognized as the participant of the bankruptcy proceeding.

For the purposes of this article the term client is understood to be an investor at the securities market, who concluded a corresponding agreement with a professional participant of the securities market, who according to this Law is recognized as a debtor or bankrupt.

2. Peculiarities of the bankruptcy procedure of securities market professional participants aren't regulated only by this article, and also means of clients' remedies can be provided by other laws.

3. The order of bankruptcy prevention and pre-trial procedures of reestablishing the solvency of securities market professional participants is prescribed by the normative legal documents of Ukraine.

4. The property administrator of the securities market's professional participant should have a commission of a court-appointed manager, and also a license, granted by the governmental body on the questions of securities market regulation.

5. Restrictions for concluding the agreements by the professional participant of the securities market, against whom bankruptcy proceedings are initiated, don't apply to agreements with securities of his clients, which are fulfilled by the clients' instructions and confirmed by them after the beginning of bankruptcy proceedings.

6. The property administrator is obliged within a ten-day period from the day of his appointment to send a notification about the beginning of bankruptcy proceedings and the appointment of the property administrator to the clients, who handed over their securities to a debtor – a securities market professional participant, to his control. The notification must contain requisites of the property administrator's license, type and requisites of the license, given to the property administrator by the governmental body on the questions of securities market regulation, and also a proposal to make arrangements concerning securities, that belong to an investor at the securities market, which are under the control of the securities market's professional participant, who is a debtor.

7. Securities and another client property, that are turned over to the control of securities market professional participant and are not in his ownership, are not included into the liquidation pool.

8. From the implementation day of the debtor's reorganization procedure by the economic court or the recognition of the securities market professional participant as a bankrupt and the

beginning of the liquidation procedure client securities are subject to return to the client, unless otherwise is provided by the agreement of a reorganization manager or a liquidator with a client.

9. If the clients' claims concerning the return of their bearer securities of one type (one issuer, one category, one type, one series) surpass the quantity of the stated securities, which are under control of the securities market professional participant, the return of the stated securities is carried out proportionally to the clients' claims.

Clients' claims in its unsatisfied part are declared money obligations and are satisfied in the order, prescribed by Article 34 of this Law.

10. In the exercise of the reorganization of the securities market professional participant a reorganization manager has the right to hand over the securities, given to such securities market professional participant by clients, to another economic entity, that has a corresponding license of the securities market professional participant.

#### **Article 50. Peculiarities of bankruptcy of an issuer or a trustee of mortgage certificates, a trustee of the construction financing fund or a trustee of the real estate activities fund**

1. In the case of the beginning of the bankruptcy proceedings regarding an issuer or a trustee of mortgage certificates mortgage assets are not integrated to the liquidation pool of such issuer or a trustee. The disposal of these assets is carried out according to the Law of Ukraine "About mortgage credit lending, consolidated mortgage debt transactions and mortgage certificates".

2. In the case of the beginning of the bankruptcy proceedings regarding a trustee of the construction financing fund or a trustee of the real estate activities fund funds and assets, that are under the trustee' control, are not integrated to the liquidation pool of such trustee. The disposal of these funds and assets is carried out according to the Law of Ukraine "About financial and credit mechanisms in housing construction and real estate activities".

#### **Article 51. General provisions about individual entrepreneur's bankruptcy**

1. The rules, provided by this article, are applied to the relationships, connected with the individual entrepreneur's recognition as a bankrupt.

2. Filing of a petition in the individual entrepreneur's bankruptcy case can be made to the economic court by an individual entrepreneur, who is a debtor, or his creditors.

The petition in the individual entrepreneur's bankruptcy case can be filed by the creditors, except creditors, claims of which are connected with the obligations, that appeared as a result of causing harm to life and health of citizens, creditors, which have claims concerning alimony recovery, and also other claims of personal character, has the right to file for their claims in the exercise of bankruptcy proceedings.

3. The petition in the individual entrepreneur's bankruptcy case can be added by the redemption plan of his debts, copies of which are directed to creditors and other bankruptcy proceedings' participants.

In the absence of creditors' denials the economic court can affirm the redemption plan of debts, what is the basis for bankruptcy proceedings' cessation for the period not less than three months.

4. The redemption plan of debts should contain:

time limits for its performance;

the sum, that is left monthly to a debtor of an individual entrepreneur and members of his family for consumption purposes;

the sum, that will be directed monthly for the redemption of creditors' claims.

5. The economic court has the right, by the motivated request of the participants of individual entrepreneur's bankruptcy proceedings, to change the liquidness debts' plan, particularly to increase or to decrease time limits for its performance, the sum, that is left monthly to a debtor and members of his family for consumption purposes.

6. If in the result of the liquidness debts' plan performance by the debtor, creditors' claims are satisfied to the full extent, bankruptcy proceedings are terminated.

7. In the case of an individual entrepreneur's recognition as a bankrupt the liquidation pool doesn't contain the property of the individual entrepreneur, against which recovery proceedings can't be instituted according to civil procedural legislation of Ukraine.

8. The economic court has the right, by the motivated request of the participants of individual entrepreneur's bankruptcy proceedings, to exclude from the liquidation pool the property of the individual entrepreneur, against which according to the civil procedural legislation of Ukraine recovery proceedings can't be initiated, if the property is unliquidated or the revenue from the sales of diture for which affects not considerably the satisfaction of creditors' claims. The total amount of the individual entrepreneur's property, which is excluded out of the liquidation pool according to the provisions of this part, can't exceed two thousand gryvnas.

The list of assets of an individual entrepreneur, that is excluded from the liquidation pool according to the provisions of this part, is sanctioned by the economic court, about what a decree is made, that can be appealed according to the established procedure.

9. Agreements of an individual entrepreneur, connected with alienation or transfer in another manner of the individual entrepreneur's property to the interested persons during a year before the commencement of bankrupt proceedings, can be declared invalid by the economic court upon the creditors' application.

## **Article 52. Consideration of the case about an individual entrepreneur's bankruptcy by the economic court**

1. Simultaneously with the acceptance of the petition about commencement of the individual entrepreneur's bankruptcy proceedings the court levies a distraintment upon belongings of the individual entrepreneur, except the property, against which recovery proceedings can't be instituted according to civil procedural legislation of Ukraine.

By the request of the individual entrepreneur the economic court can release from arrest the property in the case of concluding surety agreements or another enforcement of the individual entrepreneur's obligation by third parties.

2 By the petition of the individual entrepreneur the economic court can postpone the examination of the bankruptcy case not more than for 2 months for individual entrepreneur's handling accounts with creditors or settlement of amicable agreement.

3. Having data about opened inheritance in favor of an individual entrepreneur has the right to cease bankruptcy proceedings for solution of a question concerning heritage [in accordance with the procedure established by law](#).

4. If within the time limit, established by the part two of this article, an individual entrepreneur haven't given evidence of the creditors' claims satisfaction and at the stated time an amicable agreement is not settled, the economic court recognizes the individual entrepreneur as a bankrupt and commences the liquidation procedure.

5. From the day of the economic court's acceptance of the decree about the recognition of the individual entrepreneur as a bankrupt and the commencement of the liquidation procedure:

deadlines of the enforcement of the individual entrepreneur's obligations are considered to have come;

charging of forfeit (penalty, late payment fee), interests and other (economic) sanctions by all the individual entrepreneur's obligations is ceased;

individual entrepreneur's recovery proceedings by all the enforcement documents, except the enforcement documents by the claims for alimony recovery, and also by the claims for compensation of the damage, caused to the life and health of the citizens, are ceased.

6. A copy of the decree about the recognition of the individual entrepreneur as a bankrupt and information about the commencement of the liquidation procedure are being sent by the economic court to all the known creditors with the indication of the time for the presentation of the creditors' claims, that can't exceed two months.

Assigning of the stated copy of the economic court decree to creditors is carried out at the cost of the individual entrepreneur, recognized as a bankrupt.

7. The decree of the economic court about the recognition of the individual entrepreneur as a bankrupt and a writ of execution against the individual entrepreneur's property are assigned to the officer of the court for disposing of the bankrupt's assets. All the property of the individual entrepreneur, except the property, that is not included into the liquidation pool according to this Law, is subject to the sale.

In the case of necessity of the constant administration of the individual entrepreneur's real and valuable movable estates, the economic court appoints liquidator for this purpose and assesses his fee. In this case the sale of the individual entrepreneur's property is carried out by the liquidator.

The funds, obtained from the property of the individual entrepreneur, recognized as a bankrupt, and also his available funds in cash are turned to a deposit account of a notary public office or a private notary and are used by the decision of the economic court, that recognized an individual entrepreneur as a bankrupt.

### **Article 53. Peculiarities of the claims satisfaction of the creditors of an individual entrepreneur, recognized as a bankrupt**

1. The expenditure, connected with the individual entrepreneur's bankruptcy proceedings and the execution of the economic court decree about the recognition of the individual entrepreneur as a bankrupt, is recovered before satisfaction of the creditors' claims out of the funds, turned account of a notary public office or a private notary. The creditors' claims are satisfied in such an order of priority:

on the first-priority basis the claims of the citizens, before whom an individual entrepreneur is responsible for causing harm to life and health of citizens, by means of capitalization of the relevant periodic payments, and also claims for alimony recovery are satisfied;

on the second-priority basis the payments regarding severance benefit and remuneration of labor to persons, who work under labor agreement (contract), and concerning the payment of author's award, and also claims, arising from the obligations to pay insurance premiums on obligatory state pension insurance and other types of obligatory state social insurance, are satisfied;

on the third-priority basis the creditors' claims by the obligations, secured by pledge of the individual entrepreneur's property, are satisfied;

on the fourth-priority basis the claims concerning payment of taxes and duties (obligatory payments) are satisfied;

on the fifth-priority basis payments with other creditors are settled.

The claims of the every next priority are satisfied after satisfaction of the claims of the previous priority.

In case of funds lacking at a deposit account of a notary public office or a private notary for the purpose of full satisfaction of all the claims of the one priority the funds are shared between the creditors of the relevant priority proportionally to the sums of their claims.

2. On completion payments with creditors, an individual entrepreneur, recognized as a bankrupt, is excused from the fulfilling the further creditors' claims, which were filed after the recognition of an individual entrepreneur as a bankrupt, except the claims, provided by the paragraph two of this part.

The claims of creditors concerning the compensation of the damage, caused to life and health of citizens, claims for alimony recovery, and also other claims of personal character, which weren't satisfied in the order of the execution of the economic court decree about the recognition of an individual entrepreneur as a bankrupt, or which are satisfied partially or are not filed after the individual entrepreneur's recognition as a bankrupt, can be filed after the completion of the individual entrepreneur's bankruptcy proceedings correspondingly to the full extent or in its unsatisfied part in the order, prescribed by the civil legislation of Ukraine.

3. During five years after the recognition of an individual entrepreneur as a bankrupt, bankruptcy proceedings by his petition can't be initiated.

In the case of the individual entrepreneur's recognition as a bankrupt by the petition of a creditor during five years after completion of payments to creditors, such individual entrepreneur is not excused from the further execution of the creditors' claims. Unsatisfied claims of creditors can be filed in the order prescribed by the civil legislation of Ukraine.

#### **Article 54. Peculiarities of bankruptcy of farm enterprise**

1. The basis for the recognition of a farm enterprise as a bankrupt is its impossibility to satisfy claims of creditors by money obligations and/or to execute obligations concerning the payment of insurance premiums on obligatory state pension insurance and other types of obligatory state social insurance, taxes and duties (obligatory payments) during six months after the termination of the relevant period of agricultural works.

2. Filing of a petition by the entrepreneur – the head of the farm enterprise about initiating bankruptcy proceedings is made to the economic court only with the written consent of all members of the farm enterprise.

The petition is signed by the head of the farm enterprise.

3. Except the documents, prescribed by part one, Article 10 of this Law, the petition of the head of the farm enterprise about initiating bankruptcy proceedings can be added by the documents, which information:

about the composition and value of the farm enterprise's assets;

about the composition and value of the property, that belongs to the members of the farm enterprise freehold ;

about the level of income, that can be earned by the farm enterprise after the termination of the relevant period of agricultural works.

The stated documents are also added by the head of the farm enterprise to the statement of defense concerning the initiating bankruptcy proceedings, filed by creditor.

4. The head of the farm enterprise within a two-month period from the day of acceptance of the petition about initiating farm enterprise's bankruptcy case can file the plan of farm enterprise solvency reestablishing to the economic court.

5. In the case if the accomplishment of measures, provided by the plan of farm enterprise solvency reestablishing, gives a possibility to the farm enterprise, in particular through revenues, that can be obtained by the farm enterprise after the termination of the relevant period of agricultural works, satisfy the claims by money obligations and the obligations concerning the payment of insurance premiums on obligatory state pension insurance and other types of obligatory state social insurance, taxes and duties (obligatory payments), the economic court initiates the procedure of the disposition of the farm enterprise property.

The economic court makes a decree about the initiating of the procedure of the farm enterprise's property disposition, that can be appealed in accordance with the established order.

6. The procedure of the disposition of the farm enterprise property is introduced for the termination term of the relevant period of agricultural works, taking into account the time, necessary for the sale of the cultivated (manufactured and processed) products. The stated period can't exceed fifteen months.

7. In the event if after the initiating of the procedure of the farm enterprise's property disposition, the financial standing of the farm enterprise changed for the worse as a result of a natural calamity, epizootics and other unfavorable conditions, the period of the procedure of property disposition can be prolonged for one year.

8. The procedure of the disposition of the farm enterprise property can be terminated ahead of time by the economic court by the petition of the property administrator or anyone of the creditors in the case of:

non-accomplishment of measures, provided by the plan of farm enterprise solvency reestablishing;

in the presence of other circumstances, which evidence about impossibility of the reestablishing of the farm enterprise solvency.

After early termination of the procedure of the farm enterprise's property disposition, the farm enterprise is recognized by the economic court as a bankrupt and the liquidation procedure is initiated.

9. For the fulfillment of the procedure of the farm enterprise's property disposition the economic court appoints a property administrator, which can not have a license of a property administrator.

Full powers of a property administrator can be carried out by the head of the farm enterprise with the agreement of the appointed property administrator.

10. In the case of the farm enterprise's recognition as a bankrupt by the economic court and initiation of the liquidation procedure, the liquidation pool of the farm enterprise includes immovable property, which is in the joint ownership of the members of the farm enterprise, particularly plants, outbuildings, reclamation and other constructions, productive livestock and work stock, agricultural and other machinery and equipment, transport vehicles, inventory and another property, obtained for the farm enterprise on the common funds of its members, and also leasehold of the land plot and other property rights, that belong to the farm enterprise and have estimated money value.

11. In the case of the farm enterprise's bankruptcy the land plot, assigned to it for temporary use, including under lease, is used according to Land Code of Ukraine.

12. The property, that belongs to the head and the members of the farm enterprise on the right of the private ownership, and also another property, which was proved to be obtained on the revenues, which are not in the joint ownership of the members of the farm enterprise, aren't integrated to the liquidation pool.

13. Immovable property, and also property rights regarding immovable property, which are included to the liquidation pool of the farm enterprise, can be sold only under competitive examination, compulsory conditions of what are the preservation of the target purpose of agricultural objects, that are sold.

14. From the day of the decree about the farm enterprise recognition as a bankrupt by the economic court and the initiation of the liquidation procedure the activity of the farm enterprise is terminated.

15. The economic court sends a copy of the decree about the farm enterprise recognition as a bankrupt to the body, which has made the state registration of the farm enterprise, and to the body of local authorities according to the location of the farm enterprise.

#### **Article 55. Special features of the procedure of restructuring of the debtor conducted by its manager**

1. The manager of the debtor may file the petition in accordance with the provisions of Article 10 of this Law to initiate bankruptcy proceedings against the debtor in order to conduct the restructuring procedure before creditors file a petition to initiate bankruptcy proceedings provided the following conditions are met:

the decision of the body authorized in accordance with legislation or foundation documents of the debtor to make decisions on appeal to the economic court with the petition on initiation of bankruptcy proceedings against the debtor is present, and in cases when such authority is not defined, the decision of the body of the debtor authorized to make decisions on reorganization or liquidation of the debtor is present;

restructuring plan and written consent of the creditors, the aggregate amount of claims of which exceeds fifty percent of the debtor's accounts payable in accordance with the accounting information of the debtor, to implement the plan and to appoint the debtor's manager as the restructuring manager.

2. In order to conduct the restructuring of the debtor by its manager with due account for the special features envisaged by this Article, the debtor's manager shall appeal to the economic court in accordance with the procedure established by this Law with the petition on initiation of bankruptcy proceedings. The plan of restructuring of the debtor approved by the creditors that approved the restructuring, written consent of creditors to appoint the debtor's manager as the restructuring manager, and the proposition on the choice of the property manager shall be attached to the petition of the debtor's manager, except for cases envisaged by Article 57 of this Law.

3. After examination of the debtor's petition, if the petition and the documents attached to it meet the requirements established by this Law, the court shall deliver the ruling on initiation of proceedings in the bankruptcy case of the debtor and opening of the restructuring procedure, introduction of moratorium on satisfaction of creditors' claims, and appoint the property manager and restructuring manager – the debtor's manager who shall act in accordance with the requirements of this Law with due account for the special features envisaged by this Article.

The restructuring manager – the debtor's manager shall exercise his/her powers in accordance with this Law with due account for restrictions established by part thirteen of Article 18 of this Law.

4. On the following day after delivery of the ruling on admittance of the petition on initiation of bankruptcy proceedings against the debtor and opening of the restructuring procedure, the court shall perform official promulgation of the notice about initiation of bankruptcy proceedings against the debtor and opening of the restructuring procedure in accordance with the procedure established by Article 14 of this Law.

5. The notice shall include:

information about initiation of bankruptcy proceedings against the debtor and opening of the restructuring procedure;

full name of the debtor, its location, details of its bank accounts;

identification code of the debtor in accordance with the Unified State Register of Enterprises and Organizations of Ukraine;

information about the restructuring manager – the debtor’s manager and the property manager of the debtor.

6. Within one month since official promulgation of the notice about initiation of bankruptcy proceedings against the debtor and opening of the restructuring procedure creditors shall file written petitions with claims against the debtor and documents confirming such claims and (or) objections of creditors against conducting of the restructuring procedure by the debtor’s manager, in the economic court.

7. The restructuring manager – the debtor’s manager together with the property manager shall review the creditors’ claims and prepare the register of creditors’ claims in accordance with the provisions of this Law, and notify the claimants and the economic court about the results of the reviewing.

8. The economic court in accordance with the procedure established by this Law shall review the creditors’ claims in regard of which the debtor has objections and which have not been included in the register of creditors’ claims. In accordance with the results of the reviewing the economic court shall deliver the ruling, in which it shall determine the amount of the creditors’ claims admitted by the court, approve the register of creditors’ claims and establish the date of the creditors’ meeting.

9. The procedure of convening of the creditors’ meeting, creation and functioning of the creditors’ committee shall be defined by this Law. The creditors’ committee shall submit the approved plan of restructuring of the debtor to the economic court within one month since the date of creation of the committee.

10. The economic court shall approve the plan of restructuring of the debtor and deliver the ruling about it, which may be appealed against in accordance with the established order. The debtor shall begin implementation of the restructuring plan after the court approves it.

11. If the bankruptcy proceedings against the debtor are initiated upon the application of a creditor (creditors), the creditors’ committee shall have the right to appeal to the economic court with the petition to appoint the debtor’s manager as the restructuring manager and to appoint the property manager. The restructuring manager and property manager shall act in accordance with the provisions of this Law with due account for the special features envisaged by this Article.

12. The restructuring manager – the debtor’s manager shall exercise the powers of restructuring manager without license and receive the salary in the same amount as before appointment as the restructuring manager.

13. Upon application of the creditors’ committee or the property manager, the restructuring manager – the debtor’s manager may be relieved of the restructuring manager powers by the economic court.

Relieve of the debtor’s manager from exercising the restructuring manager powers shall deprive the debtor’s manager of the right to conduct the procedure of restructuring of the debtor.

14. The property manager shall continue to exercise his/her duties in the course of conducting of the procedure of restructuring of the debtor by the restructuring manager – the debtor’s manager.

15. In case of failure to implement the plan of restructuring of the debtor or if it is obvious that implementation of the plan of restructuring of the debtor will not restore its solvency, the bankruptcy procedure shall be conducted in accordance with this Law, and the economic court shall deliver the ruling about that.

#### **Article 56. Special features of application of the bankruptcy procedure to a debtor liquidated by the owner**

1. If the value of the property of the debtor – legal entity in respect of which the decision on liquidation has been made is insufficient to satisfy the creditors' claims, such legal entity shall be liquidated in accordance with the procedure envisaged by this Law. In case of discovery of the aforesaid circumstances the receiver (liquidating committee) shall appeal to an economic court with the petition to initiate a bankruptcy proceeding against such legal entity.

2. In accordance with the results of reviewing of the petition to initiate a bankruptcy proceeding against the legal entity, the value of the property of which is insufficient to satisfy the creditors' claims, the economic court within five days since the day of the decision to initiate the bankruptcy proceeding against the legal entity shall recognize the debtor being liquidated bankrupt, initiate the liquidation procedure, and appoint the receiver. Receiver's duties may be vested on the head of the liquidation committee (receiver) irrespective of him//her having the license.

3. Creditors shall have the right to present their claims against the debtor being liquidated within one month since the day of official publication of the notification on recognition of the debtor being liquidated bankrupt.

4. If the bankruptcy proceeding is initiated at the petition of the owner of the debtor's property (a person authorized by the owner) filed before creation of the liquidation committee (appointment of the receiver), the bankruptcy case shall be reviewed without consideration of the special features envisaged by this article.

5. Failure to comply with the requirements envisaged by the first part of this Article shall constitute grounds for refusal in entering of the record about liquidation of the legal entity into the Unified State Register of Enterprises and Organizations of Ukraine.

6. Owner of the debtor's property (a person authorized by the owner), head of the debtor, chairman of the liquidation committee (receiver) who fail to comply with the requirements of the first part of this Article shall bear joint and several liability under outstanding claims under monetary obligations and obligations on payment of insurance contributions for the mandatory state pension insurance and other kinds of mandatory state social insurance, taxes and duties (obligatory payments ) of the debtor and claims of all other creditors.

The matter of violation of the requirements of the first part of this Article by the owner of the debtor's property (a person authorized by the owner), head of the debtor, chairman of the liquidation committee (receiver) shall be examined by an economic court during execution of the liquidation procedure in accordance with this Law. In case of discovery of such violation it shall be noted in the economic court decision on approval of the liquidation balance and bankrupt receiver report, which shall constitute grounds for subsequent creditors' claims against the owner of the debtor's property (a person authorized by the owner), head of the debtor, chairman of the liquidation committee (receiver).

#### **Article 57. Special features of bankruptcy of public enterprises**

1. For the purposes of this law, public enterprises shall be the enterprises that act on the basis of state property and enterprises in which the government holds more than a 25% stake.

Evidences that confirm that the debtor is a public enterprise shall be presented to the economic court by the debtor.

2. Provisions of this Law shall apply to legal entities – enterprises that are objects of the public property rights and are not subject to privatization, as it pertains to reorganization or liquidation after they have been excluded from the list of such objects in accordance with the established procedure.

3. The Cabinet of Ministers of Ukraine shall take measures to prevent bankruptcy of public enterprises, determine optimal ways to restore their solvency and coordinate actions of the appropriate executive power bodies.

Executive power bodies shall make decisions about:

expediency of provision of state assistance to insolvent enterprises;

preparation of measures aimed to protect state interests and choose optimal ways to restructure and redeem debt obligations;

analysis of financial condition of the debtor, its reorganization and approval of the reorganization plan;

expediency of exclusion of the appropriate economic entities from the list of public enterprises not subject to privatization and of application of reorganization or liquidation procedure to them.

4. In order to take timely measures to prevent bankruptcy of a public enterprise of strategic importance to the economy and safety of the state, the head of such enterprise shall notify the managing entity of public property objects about negative financial condition within ten days since the moment of discovery of obligations, fulfilment of which would cause inability to repay monetary obligations of the enterprise to other creditors to the right extent, and about measures to restore solvency taken by him/her.

5. Petition of a debtor – public enterprise to initiate a bankruptcy proceeding shall be accompanied by the decision of the managing entity of public property objects of the debtor about the debtor's turning to court with such petition in addition to the documents envisaged by the first part of Article 7 of this Law.

6. Petition of a creditor to initiate a bankruptcy proceeding shall be additionally accompanied by evidences of notification of the appropriate managing entity of public property objects no less than three months before the date of turning to the court about availability of grounds to initiate a bankruptcy proceeding against a public enterprise of strategic importance to the economy and safety of the state. If such evidences are not presented, the judge shall return the petition to initiate a bankruptcy proceeding and documents attached to it without reviewing and deliver a judgement about it.

7. Judgements on acceptance of a petition on institution of a bankruptcy case and initiation of bankruptcy proceedings against a public enterprise shall be sent to the managing entity of public property objects and to the state body responsible for bankruptcy issues.

8. Analysis of financial and economic condition of public enterprises shall be conducted in accordance with the procedure established by the state body responsible for bankruptcy issues.

9. Appointment, termination and prolongation of authorities, dismissal from appointment of administrators of estate, reorganization managers and receivers of public enterprises shall be performed by the state body responsible for bankruptcy issues.

10. Upon application of parties of bankruptcy proceedings of public sector enterprises performance of duties of the head of the debtor may be temporarily vested by the state body responsible for bankruptcy issues on the administrator of estate before appointment of the new head of the debtor in accordance with the procedure established by legislation and foundation documents.

11. If the debtor is a public enterprise, the judge shall involve the managing entity of public property objects in the bankruptcy proceeding and notify it about institution of bankruptcy proceeding against such enterprise.

12. In case of institution of bankruptcy proceeding against a public enterprise, representatives of the state body responsible for bankruptcy issues, managing entity of public property objects may participate in creditors' meetings and work of creditors' committee in a consultative capacity.

Trustee in bankruptcy shall notify the managing entity of public property objects and the state body responsible for bankruptcy issues beforehand about time, place and agenda of creditors' meetings and sessions of the creditors' committee of public enterprises.

13. In case of institution of bankruptcy proceeding against a public enterprise, its labour collective shall have the pre-emptive right to demand leasing of the integral property complex of the debtor enterprise to the labour collective provided it undertakes the monetary obligations of the debtor and creditors agree to it.

14. Alienation of property in bankruptcy proceedings against state-owned debtor and bankrupt enterprises and alienation of property of such enterprises in the course of pretrial reorganization procedures and pursuant to amicable settlements concluded in bankruptcy cases shall be performed in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

15. Plans of reorganization, amicable settlements and liquidation estate lists and changes and additions to them in public enterprise bankruptcy cases shall be coordinated with the state body responsible for bankruptcy issues. If such coordination is absent, the reorganization plan and amicable settlement shall not be approved by the economic court, and the bankrupt's property included in the liquidation pool can not be sold.

16. The reorganization manager shall quarterly report to the managing entity of public property objects and the state body responsible for bankruptcy issues about implementation of the reorganization plan of the public enterprise.

17. The report of the public enterprise reorganization manager reviewed by the creditors' committee, the minutes of the meeting of the creditors' committee shall be sent to the managing entity of public property objects and the state body responsible for bankruptcy issues within five days since the date of the creditors' committee meeting.

18. State owned objects that have not been included in statutory funds of public enterprises (economic societies) in the process of privatization but are listed in their balance sheets shall not be included in the composition of liquidation pools of bankrupts in the course of their liquidation procedures.

19. In case of liquidation of a public enterprise and creation of a liquidation committee in the course of the liquidation procedure, the economic court shall include representatives of the state body responsible for bankruptcy issues, managing entity of public property objects, and if necessary, representatives of the local self-government body, in the composition of the liquidation committee.

20. The Cabinet of Ministers of Ukraine, local self-government bodies shall have the right to settle accounts with all creditors in accordance with the order of precedence envisaged by Article 34 of this Law during the procedure of administration of estate of the debtor or at any time before completion of the procedure of reorganization or liquidation of a public enterprise.

21. Bankruptcy proceedings against mining enterprises (mining enterprises, mines, diggings, quarries, open excavations, concentrating mills, coal mining enterprises) created in the process of privatization and corporatization, in which the government holds more than a 25% stake and sale of shares of which has been started, may be initiated not earlier than one year after the beginning of execution of the privatization plan.

Bankruptcy proceedings against mining enterprises (mining enterprises, mines, diggings, quarries, open excavations, concentrating mills, coal mining enterprises), in which the government holds more than a 25% stake, shall not be initiated since the moment of coming into force of the Law of Ukraine “On Restoring Debtor Solvency or Declaring a Debtor Bankrupt” until 1 January 2013.

Bankruptcy proceedings against mining enterprises (mining enterprises, mines, diggings, quarries, open excavations, concentrating mills, coal mining enterprises), in which the government holds more than a 25% stake, initiated since 1 January 2000 shall be terminated.

22. Application of Article 6, part two of Article 17, part two of Article 22, part two of Article 24 as it pertains to replacement of assets by means of transfer of the integrated property complex of the debtor to the statutory fund of an economic society, part one of Article 29, part twelve of Article 30, and part 4 of Article 35 of this Law to public enterprises shall not be permitted.

23. Copies of court judgements in public enterprise bankruptcy proceedings shall be sent to the state body responsible for bankruptcy issues and the managing entity of the appropriate public property object in addition to other parties.

### **Article 58. Special features of bankruptcy of an absent debtor**

1. If an individual entrepreneur – debtor or authorities of a legal entity – debtor are absent at their location, or if the debtor does not submit tax declarations, accounting documents to state tax service bodies for one year, or in case of availability of other signs that witness the absence of economic activity of the debtor, a petition on initiation of a bankruptcy proceeding against the absent debtor may be filed by a creditor irrespective of the amount of its claims against the debtor and the term of fulfilment of the obligations.

2. Within two weeks since the date of the decision to initiate a bankruptcy proceeding against an absent debtor the economic court shall deliver the judgement on recognition of the absent debtor bankrupt, initiate the liquidation procedure and appoint the initiating creditor as the receiver upon the latter’s agreement.

3. In case of discovery of the property of the absent debtor the receiver shall be replaced by a trustee in bankruptcy upon petition of the creditor. The economic court shall deliver the judgement about this.

If the receiver discovers the property of the absent debtor declared bankrupt, the proceeds from selling of such property shall be used to cover the expenses related to the bankruptcy proceeding.

If the bankrupt’s property is absent or the proceeds from selling of such property are insufficient to cover the expenses related to the bankruptcy proceeding, compensation of such expenses and remuneration of the trustee in bankruptcy shall be paid for at the expense of founders of the bankrupt.

4. The receiver shall notify all absent debtor’s creditors known to the receiver about recognition of the absent debtor bankrupt by the economic court. The creditors may send applications with claims against the bankrupt to the receiver within one month since receipt of the notification.

5. Upon petition of the receiver in case of the receiver’s discovery of the property of the absent debtor declared bankrupt the economic court may deliver the judgement to suspend the liquidation procedure envisaged by this Article and to switch to general court procedures envisaged by this Law in the bankruptcy proceeding.

6. Satisfaction of creditors' claims shall be performed in the order of precedence envisaged by Article 34 of this Law. Creditors may appeal against results of reviewing of their claims by the receiver to the economic court before the economic court approves the liquidation balance.

## **SECTION VII**

### **LICENSING, CONTROL AND SPECIAL FEATURES OF CONDUCTING OF THE ECONOMIC ACTIVITY OF TRUSTEES IN BANKRUPTCY**

#### **Article 59. Licensing of the economic activity of trustees in bankruptcy**

1. In order to obtain a license to conduct the economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers) a natural person shall have:

complete higher legal or economic education;

certificate of state registration of an individual entrepreneur;

work experience of no less than three years or one year in managerial positions after completion of the higher education;

qualification certificate of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver), to obtain which he/she shall complete training and pass the examination in accordance with the procedure established by the state body responsible for bankruptcy issues;

comply with other requirements established by the licensing conditions of conducting of the economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers).

Trustee in bankruptcy shall improve his/her qualification once per two years in accordance with the procedure established by the state body responsible for bankruptcy issues, receive the appropriate certificate about that and submit a copy of it to the state body responsible for bankruptcy issues ten days before completion of each two-year term.

Trustee in bankruptcy who performs duties of a reorganization manager at an enterprise may at the same time perform duties of an administrator of estate, reorganization manager or receiver at no more than five enterprises – debtors. This limitation shall not apply to the number of enterprises for which bankruptcy proceedings are conducted in accordance with Article 58 of this Law.

2. The state body responsible for bankruptcy issues shall refuse to issue the license for conducting of the economic activity of trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to:

a person who is prohibited to conduct entrepreneurial activity, the activity of trustee in bankruptcy, or hold managerial positions;

a person who conducts the activity of trustee in bankruptcy (administrator of estate, reorganization manager, receiver) without a license;

a person who submitted false or invalid information to obtain the license;

a person whose license has been annulled because of violation of licensing condition of conducting of the economic activity less than one year ago;

in other cases envisaged by law.

In case of annulment of the license during execution of powers by a trustee in bankruptcy, the economic court within five days since coming into force of the decision of the state body responsible for bankruptcy issues about annulment of the license shall deliver the judgement about dismissal of the trustee in bankruptcy from execution of the appropriate powers unless otherwise

provided by this Law.

Execution of powers of administrator of estate, reorganization manager or receiver by a trustee in bankruptcy without the license or after its annulment shall be prohibited.

#### **Article 60. Control over the activity of trustees in bankruptcy**

1. Control over the activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers) shall be exercised by the state body responsible for bankruptcy issues within its powers by means of scheduled and extraordinary checks of their compliance with the requirements of licensing conditions. The procedure of conducting of such checks shall be approved by the state body responsible for bankruptcy issues in coordination with the specially authorized body responsible for licensing issues.

2. Checks shall be conducted at the location of the state body responsible for bankruptcy issues or the economic entity in respect of which the trustee in bankruptcy executes its powers.

The duration of a scheduled check shall not exceed five workdays and the duration of an extraordinary check shall not exceed two workdays.

3. Trustee in bankruptcy (administrator of estate, reorganization manager, receiver) during a check of compliance with licensing conditions shall submit all documents necessary for the check and ensure proper conditions for its conducting

#### **Article 61. Actions taken by the state body responsible for bankruptcy issues to influence trustees in bankruptcy**

1. The state body responsible for bankruptcy issues shall take actions in accordance with law to influence trustees in bankruptcy (administrators of estate, reorganization managers, receivers) in case of violation of licensing conditions.

2. The state body responsible for bankruptcy issues may take the following actions to influence trustees in bankruptcy (administrators of estate, reorganization managers, receivers):

issue instructions to rectify violations of licensing conditions for trustees in bankruptcy (administrators of estate, reorganization managers, receivers);

make decisions to annul licenses for conducting of the economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers).

3. The decision of the state body responsible for bankruptcy issues about taking of actions of influence shall be obligatory for execution by trustees in bankruptcy (administrators of estate, reorganization managers, receivers).

4. The following shall constitute grounds for annulment of the license for conducting of the economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers) in addition to the grounds envisaged by the eighth part of Article 4 of this Law and Article 21 of the Law of Ukraine "On Licensing of Certain Types of Economic Activities":

discovery of circumstances, presence of which in accordance with legislation causes a person to be prohibited to conduct entrepreneurial activities;

failure of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to submit the documents necessary to conduct the check;

repeated failure of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to submit to the state body responsible for bankruptcy issues information necessary for maintaining of the unified database of enterprises against which bankruptcy proceedings are

initiated, in accordance with the procedure established by legislation;

failure of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to submit information, documents and materials related to the activity of the trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to the state body responsible for bankruptcy issues at its demand in accordance with the procedure and in terms established by this body;

refusal of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to fulfil a decision of the state body responsible for bankruptcy issues to rectify violations of licensing conditions by the trustee in bankruptcy (administrator of estate, reorganization manager, receiver), discovered by this body;

discovery of a violation of licensing conditions that cannot be rectified;

failure of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to submit in time the certificate that confirms his/her improvement of qualification.

5. Decision about annulment of the license for conducting of the economic activity of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) shall be made by the state body responsible for bankruptcy issues within ten workdays since the date of establishment of the grounds for annulment of the license, and shall be sent (handed) within three workdays since the date of the decision to the trustee in bankruptcy at his/her place of residence stated in the license with indication of reasons for annulment.

The trustee in bankruptcy (administrator of estate, reorganization manager, receiver) or his/her representatives shall be invited to reviewing of matters of license annulment.

6. The decision on annulment of the license for conducting of the economic activity of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) shall come into force in thirty days after it is made, except for decisions on annulment of licenses made in accordance with submitted licensees' applications on license annulment and in case of death of an individual entrepreneur, which shall come into force since the date of the decision.

Information about annulment of licenses shall be published on the official web site of the licensing body.

Validity of the decision on annulment of the license shall not be suspended if the trustee in bankruptcy (administrator of estate, reorganization manager, receiver) appeals against the decision of the state body responsible for bankruptcy issues about his/her violation of licensing legislation to the expert appellation council attached to the specially authorized body responsible for licensing issues.

7. A natural person may obtain a new license for conducting of the economic activity of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) not later than in one year after the date of annulment of the previous license, except for cases of license annulment upon application of the trustee in bankruptcy.

8. The decision on annulment of the license for conducting of the economic activity of a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) may be appealed against in accordance with the procedure established by legislation.

## **SECTION VIII**

### **INTERNATIONAL ASPECTS OF BANKRUPTCY PROCEDURES**

#### **Article 62. Application of bankruptcy procedures related to foreign proceedings**

1. Bankruptcy procedures related to foreign proceedings (hereinafter referred to as “international aspects of bankruptcy”) specified in this section shall be applied on the basis of mutuality, unless otherwise provided by this Law or international treaties of Ukraine, when:

a foreign trustee in bankruptcy files a petition in the economic court in which the bankruptcy case is reviewed about recognition of foreign proceedings and judicial assistance, or a foreign court addresses the economic court about cooperation because of foreign proceedings in the bankruptcy case;

the economic court in which the bankruptcy case is reviewed or a trustee in bankruptcy (administrator of estate, reorganization manager, receiver) files a petition in a foreign court about recognition of the proceeding initiated in accordance with this Law and about judicial assistance and cooperation because of a bankruptcy proceeding initiated in accordance with this Law;

a foreign trustee in bankruptcy files a petition in the economic court about recognition of the foreign proceeding and about judicial assistance and cooperation because of foreign proceedings in the bankruptcy case.

International aspects of bankruptcy specified in this section shall not apply to bankruptcy procedures of banks and other financial institutions.

2. Economic court shall refuse to apply international aspects of bankruptcy if their application contradicts with the public policy of Ukraine.

3. During bankruptcy proceedings the economic court shall assume the following:

bankruptcy proceeding against a debtor – resident of Ukraine is the main proceeding in respect to any foreign proceeding;

bankruptcy proceeding against a debtor – representative of a resident of Ukraine in a foreign state is the non-main proceeding in respect to the main proceeding in Ukraine;

bankruptcy proceeding against a debtor initiated in a foreign state which is the state of residency of the debtor is the main foreign proceeding;

bankruptcy proceeding against a debtor – representative of a non-resident of Ukraine in a foreign state is the non-main foreign proceeding.

4. Recognition of a foreign proceeding shall include recognition of court judgements delivered by the foreign court during this proceeding and decisions about appointment, dismissal or replacement of a foreign trustee in bankruptcy, decisions about the process of the foreign proceeding, its suspension or completion.

### **Article 63. Grounds for provision of judicial assistance and cooperation**

1. An economic court or trustee in bankruptcy (administrator of estate, reorganization manager, receiver) acting on the grounds of this Law may provide assistance to a foreign trustee in bankruptcy or cooperate with a foreign court in accordance with this Law and other regulatory legal acts of Ukraine.

### **Article 64. Foreign trustee in bankruptcy**

1. In order to realize his/her rights and duties in Ukraine, a foreign trustee in bankruptcy shall confirm his/her powers in accordance with the procedure established by this Law.

2. Foreign trustee in bankruptcy shall have the right to:

1) file a petition in an economic court about:

recognition of a foreign proceeding in accordance with Article 65 of this Law;

provision of judicial assistance in accordance with Article 66 of this Law;

declaration of transactions that harm creditors or debtors invalid, after the economic court delivers a judgement on recognition of the foreign proceeding;

2) participate in bankruptcy proceedings in accordance with this Law after the economic court delivers a judgement on recognition of the foreign proceedings, and before such judgement – only upon permission of the judge or the trustee in bankruptcy (administrator of estate, reorganization manager, receiver), namely:

participate in meetings and sessions of the creditors' committee in a consultative capacity;

request and receive documents or their copies from enterprises, institutions, organizations, associations and citizens – upon their agreement;

receive information about the property of the debtor, which is the subject of encumbrance, from the Unified Register of prohibitions of alienation of real estate objects and the State register of movable property encumbrances;

perform other actions in accordance with this Law.

3. Foreign trustee in bankruptcy shall:

1) file a petition in the economic court about termination of his/her powers in Ukraine or information about early termination of his/her powers in a foreign state;

2) notify the economic court about any other foreign proceeding related to the debtor that became known to him/her;

3) submit information necessary for maintaining of the unified database of information about enterprises against which bankruptcy proceedings have been initiated to the state body responsible for bankruptcy issues in accordance with the procedure established by the legislation of Ukraine;

4) execute other powers envisaged by this Law.

4. During execution of his/her powers in Ukraine, the foreign trustee in bankruptcy shall act reasonably and in good faith.

Failure to execute duties or improper execution of duties vested on a foreign trustee in bankruptcy in accordance with this Law, which caused significant damage to creditors or debtor, may constitute grounds to remove him/her from the proceeding, about which the economic court shall deliver the judgement and send it to the person whom the trustee in bankruptcy represents, and bring him/her to responsibility in accordance with law.

### **Article 65. Petition about recognition of a foreign proceeding and foreign trustee in bankruptcy**

1. The foreign trustee in bankruptcy shall file the petition about recognition of the foreign proceeding, within the limits of which he/she was appointed, in the economic court that carries out the bankruptcy proceeding before this court delivers substantive judgement (approval of amicable settlement, reorganization plan, liquidation). The petition about recognition of the foreign proceeding shall be composed in the state (official) language of the state in which the foreign bankruptcy proceeding is carried out. The petition shall be accompanied with its Ukrainian translation. Unless otherwise provided by international treaties of Ukraine, the petition shall include:

the name of the economic court in which it is filed;

name (title) of the foreign trustee in bankruptcy that files the petition with indication of his/her (its) place of residence (stay) or location;

name (title) of the debtor, indication of his/her (its) place of residence (stay) or location, or location of his/her (its) property in Ukraine;

content and motives of filing of the petition.

2. If international treaties of Ukraine do not determine the list of documents that have to be attached to the petition, or if such treaties are absent, the following documents shall be attached to the petition:

a copy of decision of the foreign court about initiation of bankruptcy proceeding and appointment of the foreign trustee in bankruptcy, certified as required by law;

the document about coming into force of the court decision (if this is not mentioned in the decision itself);

the document that witnesses that the debtor, in respect of which the foreign court made the decision about initiation of bankruptcy proceeding and which did not participate in the court proceedings, was properly notified about the place and time of reviewing of the case;

the document that confirms the powers of the foreign trustee in bankruptcy;

information about other foreign proceedings in respect of the debtor known to the foreign trustee in bankruptcy;

translation of the documents specified in the second part of this Article into Ukrainian or other language envisaged by international treaties of Ukraine, certified as required by law.

3. If the economic court discovers that the petition and documents attached to it are not formalized in accordance with the requirements envisaged by this Article, or that not all documents listed herein are attached to the petition, the court shall leave it without consideration and return it together with attached documents to the foreign trustee in bankruptcy within five days since the date of its receipt.

Returning of the petition shall not deprive the foreign trustee in bankruptcy of the right to file it in the economic court again after rectification of the reasons of returning.

4. If the economic court discovers that the petition and documents attached to it are formalized in accordance with the established requirements, the court shall deliver the judgement on admitting of the petition for reviewing within five days since the date of its receipt.

5. The economic court shall assume that the documents submitted for substantiation of the petition about recognition of the foreign proceeding that are specified in the second part of Article 65 of this Law are authentic irrespective of whether they have been legalized.

#### **Article 66. Judicial assistance that may be provided after filing of the petition about recognition of the foreign proceeding**

1. The economic court shall take actions to protect debtor's assets or creditors' interests on the grounds of a written petition of the foreign trustee in bankruptcy since the moment of filing of the petition about recognition of the foreign proceeding and until delivery of the appropriate judgement, namely:

prohibit encumbrance of the debtor's property on the grounds of enforcement documents and other documents in accordance with which encumbrances are created in accordance with legislation;

take actions to ensure gathering of evidence or discovery of information about assets, business transactions, rights, duties, or responsibility of the debtor.

2. The economic court may refuse to provide judicial assistance in accordance with this Article, if such assistance hinders carrying out of the main bankruptcy proceeding in Ukraine.

#### **Article 67. Reviewing of the petition about recognition of the foreign proceeding**

1. The economic court shall notify the debtor in writing about receipt of the petition about recognition of the foreign proceeding within five days and establish the thirty days term for submission of possible objections against the petition.

2. After the debtor submits the objections in writing or if no objections are submitted within the established term since notification of the debtor, the judge shall deliver the judgement in which time and place of court examination of the petition shall be stated. The foreign trustee in bankruptcy and the debtor shall be notified about this in writing within three days since delivery of the judgement.

3. Upon petition of the foreign trustee in bankruptcy and availability of За заявою іноземного арбітражного керуючого або боржника і за наявності поважних причин господарський суд може перенести час розгляду заяви, про що повідомляє сторони.

4. Failure to appear in court without legitimate reasons of the foreign trustee in bankruptcy, debtor, or their representatives, which are known to be handed the summons to court in time, shall not prevent reviewing of the petition, if any of the parties did not petition to postpone its reviewing.

5. After examination of submitted documents and hearing testimonies of the parties the economic court shall deliver the judgement about recognition of the foreign proceeding or about refusal to satisfy the petition. A copy of the judgement shall be sent by the court to the foreign trustee in bankruptcy within three days since its delivery.

#### **Article 68. Grounds for refusal to satisfy the petition about recognition of the foreign proceeding**

1. Petition about recognition of the foreign proceeding shall not be satisfied in cases envisaged by international treaties of Ukraine. If international treaties of Ukraine do not envisage such cases, the petition may not be satisfied:

if the decision of the foreign court about initiation of the foreign proceeding under the legislation of the state in the territory of which it was made has not come into force;

if the party in respect of which the foreign bankruptcy proceeding has been initiated was not properly notified about reviewing of the case;

if an economic court of Ukraine has already delivered a judgement about recognition of the foreign proceedings, which came into force, on the same grounds;

in other cases envisaged by laws of Ukraine.

2. If the circumstances that caused the refusal to satisfy the petition about recognition of the foreign proceeding have changed, the foreign trustee in bankruptcy may again file the appropriate petition in the economic court.

#### **Article 69. Judgement of the economic court about recognition of the foreign proceeding**

1. The judgement of the economic court about recognition of the foreign proceeding shall state:

full title or name of the debtor in respect of which the bankruptcy proceeding is initiated, its location or place of residence;

name of the foreign court that initiated the bankruptcy proceeding;

full title or name of the foreign trustee in bankruptcy, its location or place of residence;

status of the recognized foreign proceeding in accordance with the provisions of this Law.

2. The judgement about recognition of the foreign proceeding or about refusal to recognize it may be appealed against in accordance with the procedure and in the terms envisaged by the Economic Procedure Code of Ukraine.

**Article 70. Grounds for change or annulment of the judgement of the economic court about recognition of the foreign proceeding**

1. Grounds for change or annulment of the judgement of the economic court about recognition of the foreign proceeding shall be improper application of substantive and procedural law and change or termination of circumstances by which the economic court was motivated during its delivery.

**Article 71. Judicial assistance that may be provided after recognition of the foreign proceeding**

1. After recognition of the foreign proceeding, except for cases envisaged by Article 68 of this Law, in order to protect debtor's assets or creditors' interests, the economic court may provide the appropriate judicial assistance on the grounds of petition of the foreign trustee in bankruptcy, namely:

1) terminate the bankruptcy proceeding or other procedural actions related to assets, rights, obligations or responsibility of the debtor, provided all necessary actions to ensure satisfaction of creditors' interests in Ukraine are taken;

2) suspend the right to dispose of any assets of the debtor;

3) continue to provide the judicial assistance provided in accordance with Article 72 of this Law;

4) provide additional judicial assistance in accordance with the legislation of Ukraine or international treaties of Ukraine.

2. Provision of judicial assistance shall be terminated since the moment of inclusion of creditors' claims in the foreign proceeding into the register of creditors' claims approved in the bankruptcy proceeding against the debtor initiated in accordance with this Law, in respect of which the appropriate judgement shall be delivered.

3. Introduction of changes to the debtor's reorganization plan after recognition of the foreign proceeding by the economic court shall be performed in accordance with the provisions of Article 21 of this Law.

**Article 72. Petition about provision of judicial assistance**

1. The petition about provision of judicial assistance shall be composed in the state language of the state that the foreign trustee in bankruptcy represents. The petition shall be submitted in writing and shall include:

name of the economic court in which the petition is filed;

name (title) of the foreign trustee in bankruptcy with indication of his/her (its) place of residence (stay) or location;

title of the case in which the petition about provision of judicial assistance is filed;

content of the petition and information necessary for its satisfaction, including information about persons that may be affected by judicial assistance actions;

necessity to guarantee confidentiality of submission of the petition and information obtained during provision of the assistance.

2. During reviewing of the petition about provision of assistance and in case of making of the decision to provide the assistance the economic court shall apply the legislation of Ukraine.

3. In accordance with the results of reviewing of the petition about provision of assistance the economic court shall deliver the judgement and send its copy to the foreign trustee in bankruptcy within three days of the delivery

### **Article 73. Protection of corporeal rights of creditors and other interested persons**

1. When deciding to provide judicial assistance, refuse to provide it or terminate provision of the assistance, the economic court shall ascertain that property rights and other corporeal rights of creditors and other interested persons, including the debtor, will not be violated.

2. The economic court may change the content of judicial assistance or terminate its provision on the grounds of petition of the foreign trustee in bankruptcy.

### **Article 74. Cooperation**

1. During a bankruptcy proceeding, which is the main proceeding or is the non-main proceeding in respect to the main foreign proceeding:

economic court may communicate with foreign courts or foreign trustees in bankruptcy, or send requests directly to foreign courts or foreign trustees in bankruptcy, or authorize the trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to perform these actions;

trustee in bankruptcy (administrator of estate, reorganization manager, receiver) shall have the right to communicate with foreign courts and foreign trustees in bankruptcy during execution of his/her functions upon agreement of the economic court;

trustee in bankruptcy (administrator of estate, reorganization manager, receiver) shall immediately notify the economic court in writing about all his/her communications with a foreign court or foreign trustee in bankruptcy.

2. If the cooperation carried out in accordance with the first part of this article may harm interests of creditors or the debtor, the economic court shall deliver the judgement about termination or prohibition of the cooperation on its own initiative or on the motion of the parties.

3. Cooperation may be carried out in the following forms:

1) carrying out of actions in the foreign state by the trustee in bankruptcy (administrator of estate, reorganization manager, receiver) under instructions of the economic court;

2) transfer of information by the economic court or trustee in bankruptcy (administrator of estate, reorganization manager, receiver) to the foreign court or foreign trustee in bankruptcy, if transfer of such information is not prohibited by law;

3) coordination of actions on management of assets and economic activity of the debtor;

4) coordination of actions on provision of judicial assistance in the course of bankruptcy proceedings against the same debtor.

### **Article 75. Coordination of provision of judicial assistance in the course of simultaneous bankruptcy proceeding initiated in accordance with this Law and foreign proceeding**

When a foreign proceeding and a bankruptcy proceeding initiated in accordance with this Law are carried out in respect of the same debtor simultaneously, the economic court shall provide judicial assistance while complying with the following requirements:

if the petition about recognition of the foreign proceeding is filed after initiation of the bankruptcy proceeding in accordance with this law, provision of judicial assistance in accordance with Articles 71 and 72 of this Law shall not rule out the possibility of satisfaction of Ukrainian creditors' claims;

if the bankruptcy proceeding is initiated in accordance with this Law after recognition or filing of the petition about recognition of the foreign proceeding, judicial assistance provided in accordance with Articles 71 and 72 of this Law shall be reviewed and changed, or terminated if it is incompatible with the bankruptcy proceeding initiated in accordance with this Law.

#### **Article 76. Provision of judicial assistance in the course of carrying out of several foreign proceedings**

In case of recognition of several foreign proceedings in respect of the same debtor, the economic court shall provide judicial assistance while complying with the following requirements:

provision of judicial assistance to the trustee in bankruptcy of a non-main foreign proceeding shall be coordinated with provision of assistance in the course of the main foreign proceeding;

if after recognition of a non-main foreign proceeding another non-main foreign proceeding is recognized, the economic court shall provide, change or terminate provision of judicial assistance in order to coordinate such proceedings.

#### **Article 77. Payments within the limits of simultaneous proceedings**

A creditor that has received partial compensation under its claim within the limits of a foreign proceeding may not receive compensation under the same claim within the limits of a bankruptcy proceeding initiated in accordance with this Law in respect of the same debtor until the time when compensation to other creditors of the same priority is proportionally lower than the compensation already received by this creditor.

### **Section VII**

#### **FINAL PROVISIONS**

1. This Law shall come into force since the day of its publication.
2. Regulatory legal acts approved before this Law came into force shall remain valid insofar as they do not contradict with this Law.
3. Beginning with the date of coming into force of this Law, the Law of Ukraine "On Introduction of Moratorium for Compulsory Selling of Property" No. 2864-III of 29 November 2001 (Gazette of the Verkhovna Rada of Ukraine, 2002, No. 10, p. 77; 2005, No. 2, p. 31).
4. Article 2 of the Law of Ukraine "On Licensing of Certain Types of Economic Activity" (Gazette of the Verkhovna Rada of Ukraine, 2000, No. 36, p. 299; 2001, No. 11, p. 45; 2002, No. 1, p. 1, No. 20, p. 134; 2004, No. 12, p. 155; 2005, No. 42, p. 465; 2006, No. 18, p. 155; 2007, No. 9, p. 67, No. 10, p. 89, No. 34, p. 444) after part four shall be amended by adding the following new part:

“Licensing of economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers) shall be performed with due account for the special features established by the Law of Ukraine “On Restoring Debtor Solvency or Declaring a Debtor Bankrupt”. Provisions of the Law of Ukraine “On Licensing of Certain Types of Economic Activity” shall be applied for licensing of economic activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers) in the part which is not regulated by the Law of Ukraine “On Restoring Debtor Solvency or Declaring a Debtor Bankrupt”.”.

5. Article 2 of the Law of Ukraine “On Main Principles of State Supervision (Control) in the Field of Business Activity” (Gazette of the Verkhovna Rada of Ukraine, 2007, No. 29, p. 389; 2009, No. 49, p. 737) shall be amended by adding the following part three:

“This Law shall not apply to the relations that arise during exercising of control over the activity of trustees in bankruptcy (administrators of estate, reorganization managers, receivers)”.

6. In the Law of Ukraine “On Executive Proceedings” (Gazette of the Verkhovna Rada of Ukraine, 1999, No. 24, p. 207; 2002, No. 14, p. 96; 2003, No. 5, p. 46; 2004 p., No. 6, p. 37, No. 11, p. 140; 2005, No. 33, p. 430, p. 431, No. 42, p. 464; 2006, No. 35, p. 295, p. 296; 2007, No. 10, p. 84, No. 16, p. 216; 2010, No. 4, p. 36, with amendments introduced by the Law of Ukraine of 7 July 2010 No. 2453-VI):

1) in Article 26:

part one shall be amended by adding the following clause 6-1:

“6-1) official promulgation of the notice about initiation of bankruptcy proceedings against the debtor, if the moratorium applies to the collector’s claim in accordance with law”;

2) amend by adding the following part:

“In case of refusal to initiate executive proceedings on the grounds of clause 61 of part one of this Article the state enforcement officer shall state the name of the economic court in which the bankruptcy proceedings against the debtor are instituted, and the number of the bankruptcy case, in the decree, and explain to the collector his/her right to appeal to this court with the appropriate petition and obtain satisfaction of his/her claims during the proceedings in the bankruptcy case along with other creditors.”;

3) in clause 8 of part one of Article 34 the words “institution by the economic court” shall be replaced by the words “delivery by the economic court of the ruling on institution”;

4) in Article 37:

in clause 7 of part one the words “to the trustee in bankruptcy in case of declaring the debtor bankrupt” shall be replaced by the words “official promulgation of the notice about initiation of bankruptcy proceedings against the debtor, if the moratorium applies to the collector’s claim in accordance with law and the executive proceeding is not at the stage of distribution of amounts of money collected from the debtor (including revenues from selling of the debtor’s property)”;

5) Article 37 shall be amended by adding the following part three:

“Decree about completion of the executive proceeding in case of official promulgation of the notice about initiation of bankruptcy proceedings against the debtor shall be issued by the state enforcement officer not later than on the next day after such circumstances became known to him/her. In this case the enforcement document shall be sent to the economic court that examines the bankruptcy case,”;

6) in Article 38:

part one after the words “except for sending the enforcement document to another state executive service agency to which it concerns” shall be amended by adding the words “or official promulgation of the notice about initiation of bankruptcy proceedings against the debtor”;

amend the article by adding the following part:

“In case of completion of the executive proceeding in case of official promulgation of the notice about initiation of bankruptcy proceedings against the debtor, the enforcement documents

may be presented for execution again within the period stipulated by Article 31 of this Law, if as a result of completion of the executive proceeding the claims confirmed by these documents were not satisfied fully or partially and are not considered redeemed (written off, forgiven) in accordance with the Law of Ukraine “On Restoring Debtor Solvency or Declaring a Debtor Bankrupt”.

7) amend the Law by adding the following Article 40-2:

“Article 40-2. Submitting of the enforcement document to the economic court in which proceedings in the bankruptcy case of the debtor – legal entity or individual entrepreneur are pending

In case of completion of executive proceeding on the grounds of clause 7 of part one of Article 37 of this Law the state enforcement officer within three days shall distribute the amounts of money collected from the debtor and send the enforcement document to the economic court in which proceedings in the bankruptcy case of the debtor are pending.

The back side of the enforcement document or a sheet of paper appended to it shall bear the ruling of the economic court on institution of bankruptcy proceedings, pursuant to which the enforcement document is submitted, amount of collector’s claims left unsatisfied under this enforcement documents, list of attachments, date of the record.

Copy of the ruling on completion of executive proceeding, and in case of attachments – copies of decrees on attachment, copies of acts of inventorying and attachment of property shall be appended to the enforcement document.

The enforcement documents with appendices shall be sent to the economic court by registered mail with the enclosure list or submitted to the economic court with written acknowledgment of receipt”.

7. Article 36 of the Law of Ukraine “On International Private Law” shall be amended by adding the following paragraph:

“in a bankruptcy case the debtor has the location of main interests or main business activity in the territory of Ukraine.”

8. Article 22 of the Law of Ukraine “On State Secrets” shall be amended by adding the following new part five:

“In case of application of court bankruptcy procedures against the debtor the clearance for access to state secrets shall be granted to the trustee in bankruptcy (administrator of estate, reorganization manager, receiver) by the bodies of the Security Service of Ukraine after checking upon submission of the state power body, local self-government body, enterprise, institution, organization, to the administrative domain of which the debtor belongs or which is the customer of the works related to state secrets”.

In relation to that, parts five to seven shall be deemed parts six to eight respectively.

9. The Cabinet of Ministers of Ukraine within three months shall:

prepare and submit to the Verkhovna Rada of Ukraine recommendations on amendments of legislative acts arising from this Law;

prepare and harmonize with this Law its own regulatory legal acts;

ensure preparation and approval of regulatory legal acts in accordance with this Law by ministries and other central bodies of executive power of Ukraine;

ensure reviewing and annulment of regulatory legal acts that contradict this Law by ministries and other central bodies of executive power of Ukraine.

10. Recommend the President of Ukraine to harmonize his acts with this Law.