

REPUBLIC OF LITHUANIA
LAW
ON PERSONAL BANKRUPTCY

10 May 2012 No XI-2000

Vilnius

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose and Scope of the Law

1. The purpose of this Law shall be to create conditions for the restoration of solvency of a natural person, farmer or another natural person pursuing individual activity, acting in good faith, as defined by the Law of the Republic of Lithuania on Personal Income Tax (hereinafter: 'a natural person'), at the same time ensuring that creditors' claims are satisfied according to the procedure established by this Law in order to strike a fair balance between the interests of a debtor and his creditors.

2. This Law shall apply to natural persons whose centre of the main property interests is in the Republic of Lithuania.

3. This Law shall regulate the personal bankruptcy process.

4. The personal bankruptcy process may be initiated only by a natural person himself.

5. The personal bankruptcy process shall take the form of a judicial procedure.

6. The provisions of other laws of the Republic of Lithuania governing farmer activities, individual activity of a natural person, the creditor's right to satisfaction of claims, the creditor's right to take measures to recover debts, set-off, taxes, as defined by the Law of the Republic of Lithuania on Tax Administration, and tax administration shall apply to a personal bankruptcy process to the extent they are not in conflict with the provisions of this Law.

7. This Law shall apply to natural persons irrespective of the time of occurrence of their liabilities.

Article 2. Definitions

1. **Personal bankruptcy process** shall mean the entirety of personal bankruptcy procedures.

2. **Insolvency of a natural person** shall mean the condition of a natural person, where he is unable to discharge his liabilities, as they mature, exceeding 25 minimum monthly wages (hereinafter: 'MMW') approved by the Government of the Republic of Lithuania.

3. **Bankruptcy administrator** shall mean a natural or legal person or a division/branch of a legal person having the right to provide enterprise bankruptcy administration services according to the procedure established by the Enterprise Bankruptcy Law of the Republic of Lithuania (hereinafter: 'the Enterprise Bankruptcy Law') or the right to provide enterprise restructuring administration services according to the procedure established by the Law of the Republic of Lithuania on Restructuring of Enterprises (hereinafter: 'the Law on Restructuring of Enterprises').

Article 3. Creditors of a Natural Person

Creditors of a natural person (hereinafter: 'creditors') shall mean natural and legal persons entitled to request that obligations and liabilities of a natural person (hereinafter: 'claims') be discharged, including:

- 1) in the case of non-payment of taxes, institutions acting for the State and authorised to collect taxes;
- 2) in the case of non-payment of a salary and failure to cover damage arising from labour relations, employees of a natural person/successors thereof;
- 3) in the event of non-repayment of loans granted from the funds borrowed on behalf of the State and loans guaranteed by the State, institutions acting for the State (the Ministry of Finance of the Republic of Lithuania or an institution administering a loan);
- 4) in the event of non-repayment of support granted from the EU funds, institutions acting for the State and administering the EU funds;
- 5) other creditors.

CHAPTER TWO PERSONAL BANKRUPTCY PROCESS

Article 4. Personal Bankruptcy Petition

1. A natural person shall file his bankruptcy petition with a district court having jurisdiction over his place of residence according to the procedure established by the Code of Civil Procedure of the Republic of Lithuania (hereinafter: 'the Code of Civil Procedure').

2. A natural person who has the intention to file a personal bankruptcy petition and whose condition corresponds to that defined by Article 2(2) of this Law shall give a written notice thereof to all his creditors no less than one month before filing his bankruptcy petition.

3. A bankruptcy petition to be filed with the court shall indicate the causes of the insolvency of a natural person, be accompanied by documents evidencing insolvency, if any available to the natural person, provide the contact information of the natural person concerned, including the address of his place of residence, phone number, e-mail address, etc., and may eventually nominate a candidate for the position of a bankruptcy administrator.

4. The following shall accompany a bankruptcy petition and be submitted:

1) copy/copies of the notice/notices referred to in paragraph 2 of this Article;
2) documents evidencing income received and/or expected to be received by a natural person;

3) list of the assets held by a natural person (immovable property; funds in bank accounts, including the accounts in credit institutions; cash, if the total amount exceeds one MMW; shares, other securities and other property) (hereinafter: 'the assets') specifying the value, as indicated by the natural person;

4) information about the pledged assets of a natural person, other performance guarantees provided and other liabilities;

5) list of creditors, including the name, address of the place of residence, claims and time limits for claim satisfaction in the case of a natural person, or the name, legal entity number, address of the registered office, claims and time limits for claim satisfaction in the case of a legal person;

6) list of debtors, including the name, address of the place of residence, receivables and time limits for their receipt in the case of a natural person, or the name, legal entity number, address of the registered office, receivables and time limits for their receipt in the case of a legal person;

7) information about civil proceedings in courts involving property claims in respect of a natural person and/or seizure of his assets, proceedings involving claims against the natural person concerning labour relations, criminal proceedings involving property claims in respect of the natural person and/or seizure of his assets, and extrajudicial debt recovery;

8) list of dependants of a natural person, including their names and dates of birth, information about agreements signed by the natural person concerning maintenance of such persons and marriage contracts, also copies of documents supporting such information;

9) information about funds referred to in Article 7(1)(6) and/or Article 7(2)(3) of this Law.

5. Where a natural person nominates a candidate for the position of a bankruptcy administrator by filing a bankruptcy petition, the bankruptcy petition shall be accompanied by the consent of the bankruptcy administrator for carrying out personal bankruptcy procedures. The consent for carrying out personal bankruptcy procedures must indicate:

1) name, correspondence address and contact details where the bankruptcy administrator is a natural person; or

2) name, number, address of the registered office and contact details, where the bankruptcy administrator is a legal person or a division/branch of a legal person.

6. Where a natural person nominates a candidate for the position of a bankruptcy administrator by filing a bankruptcy petition, the bankruptcy petition shall be accompanied by evidence substantiating the bankruptcy administrator's amount of funds necessary for carrying out bankruptcy procedures from the effect day of a court decision to open personal bankruptcy proceedings until the effect day of a decision approving the plan for the satisfaction of creditors' claims and restoration of solvency of the natural person (hereinafter: 'the plan').

7. Where a candidate for the position of a bankruptcy administrator is not nominated by a natural person, a court shall appoint a bankruptcy administrator nominated by an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in accordance with the procedure established by the Government. Prior to a court decision to open personal bankruptcy proceedings, the bankruptcy administrator shall submit to the court evidence substantiating the amount of funds necessary for carrying out bankruptcy procedures from the effect day of a court decision to open personal bankruptcy proceedings until the effect day of a decision approving the plan.

8. Other documents relevant to the opening of personal bankruptcy proceedings may also be delivered to a court.

Article 5. Hearing of a Personal Bankruptcy Petition in Court

1. Personal bankruptcy proceedings shall be opened and heard in an adversarial procedure as prescribed by the Code of Civil Procedure, except for the cases specified by this Law.

2. Personal bankruptcy proceedings shall be opened and heard by a court by an oral procedure, except for the case defined in Article 8(6) of this Law.

3. Upon the receipt of a personal bankruptcy petition, a court may:

1) order a natural person to additionally submit to the court documents necessary for bankruptcy proceedings;

2) apply, in accordance with the Code of Civil Procedure, interim measures valid until the effect day of a court decision to open or to decline to open personal bankruptcy proceedings.

4. The issue concerning a personal bankruptcy petition shall be resolved by a court decision. A decision not to admit a personal bankruptcy petition may be subject to appeal.

5. The court must publish information about the admission of a personal bankruptcy petition or declining to open personal bankruptcy proceedings not later than on the working day following the effect day of a decision to admit a personal bankruptcy petition or to decline to open personal bankruptcy proceedings. This information shall be made public on the website of a court defined in Article 4(1) of this Law.

6. A court shall, no later than on a working day following a decision to admit a personal bankruptcy petition, send a copy of the decision to bailiffs who have been provided with writs of execution for the purpose of debt recovery from a natural person or seizure of his assets, also to credit institutions with which the natural person has any accounts. Realisation and/or recovery of the assets of the natural person, including extrajudicial recovery of debt, shall be suspended on the day of receipt of the said notice.

7. A court shall, not later than within one month of a decision to admit a personal bankruptcy petition, adopt a decision to open or to decline to open personal bankruptcy proceedings. The court shall be entitled, for valid reasons, to extend the time limit for the preparation for personal bankruptcy proceedings, but no longer than for 15 days.

8. A court shall decline to open personal bankruptcy proceedings provided that at least one of the following conditions is met:

1) in the course of hearing of a personal bankruptcy petition, the court establishes that the condition of a natural person is not adequate to that defined in Article 2(2) of this Law. The determination of the condition of the natural person shall not take into account creditors' claims which, according to Article 29(7) of this Law, may not be written off;

2) it is established that, within three years preceding the filing of a bankruptcy petition, a natural person became insolvent as a result of entering into transactions defined in Article 6.67 of the Civil Code of the Republic of Lithuania (hereinafter: 'the Civil Code') and violating creditors' rights, without having the obligation to enter into such transactions, or other actions that, according to the Civil Code, are deemed fraudulent;

3) it is established that a natural person became insolvent by reason of his addictions, including abuse of alcohol, narcotic and other psychotropic substances, gambling, etc.;

4) it is established that a natural person has been imposed a penalty for a crime or misdemeanour defined in Articles 207, 208, 209, 216, 222 and 223 of the Criminal Code of the

Republic of Lithuania (hereinafter: 'the Criminal Code') and his conviction has not expired, if he became insolvent for this reason;

5) less than ten years have passed after the discontinuation or closing of personal bankruptcy proceedings, except for the cases indicated in Article 10(1)(1), (2) and (7) of this Law;

6) it is established that a natural person is involved in bankruptcy proceedings opened against a legal person with unlimited civil liability of which the natural person is a member.

9. Subject to a decision to decline to open personal bankruptcy proceedings, a court shall, no later than on a working day following the effect day of the decision, send a copy of the decision to bailiffs who have been provided with writs of execution for the purpose of debt recovery from a natural person or seizure of his assets, also to credit institutions with which the natural person has accounts. Realisation and/or recovery of assets, including extrajudicial recovery, shall be resumed, and interim measures applied from the admission of a personal bankruptcy petition to declining to open bankruptcy proceedings shall be cancelled.

Article 6. Opening of Personal Bankruptcy Proceedings

1. A court shall take a decision to open personal bankruptcy proceedings where it establishes that a natural person is insolvent and there is no ground for a different decision according to Article 5(8) of this Law.

2. A court decision to open or decline to open personal bankruptcy proceedings shall become effective within seven days of the day it is taken, unless it has been appealed against.

3. A court decision to open personal bankruptcy proceedings shall indicate:

1) name, personal number and address of the place of residence of a natural person involved in bankruptcy proceedings;

2) data of an appointed bankruptcy administrator indicated in Article 4(5) of this Law;

3) period of minimum 15 days, but no more than 30 days of the effect day of a court decision to open personal bankruptcy proceedings, during which creditors have the right to bring to the bankruptcy administrator their claims that arose before the opening of personal bankruptcy proceedings;

4) amount of funds that the bankruptcy administrator is entitled to use for carrying out bankruptcy procedures, satisfying the basic needs of a natural person from the effect day of a court decision to open personal bankruptcy proceedings to the effect day of the decision approving the plan.

5) deadline for submitting to a court a draft plan.

4. Upon the effect of a court decision to open personal bankruptcy proceedings, a court shall, no later than on the next working day, give a written notice accompanied by a copy of the decision to:

1) institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law of the opening of personal bankruptcy proceedings. The institution authorised by the Government of the Republic of Lithuania and referred to in this point must, no later than on a working day following the receipt of the court notice, publish a notice of the opening of personal bankruptcy proceedings, data of the bankruptcy administrator specified in point 2 of paragraph 3 of this Article and indicate the period specified in point 3 of paragraph 3 of this Article on its website according to the procedure established by the Government of the Republic of Lithuania or an institution authorised thereby;

2) other courts hearing cases in which property claims have been brought against the natural person, including claims relating to labour relations, of the opening of bankruptcy proceedings, and take over the hearing of these cases in cases defined by procedural law;

3) pre-trial investigation institutions, the prosecutor's office or courts, if civil claims have been brought in criminal proceedings by the creditors of a natural person, and take over the examination of all documents relating to these claims in cases defined by procedural law. The court shall also notify pre-trial investigation institutions, the prosecutor's office or courts if the assets of the natural person are seized in criminal proceedings and take over documents relating to the seizure of the assets in cases defined by procedural law;

4) bailiffs to whom writs of execution have been provided in relation to debt recovery from a natural person or the seizure of his assets;

5) credit institutions servicing a natural person;

6) state registers processing data of the assets to be registered.

5. Upon the effect of a court decision to open personal bankruptcy proceedings:

1) it shall be prohibited for a natural person to discharge all his liabilities not met before the effect day of a court decision to open personal bankruptcy proceedings, including payment of interest, penalties and taxes, also to recover debts from the natural person by way of a judicial or extrajudicial procedure, except for set-off, where such set-off is permitted under the provisions of tax laws concerning set-off of tax overpayment/difference. Penalties and interest on all liabilities of the natural person, including late payment of amounts relating to labour relations, shall stop accruing;

2) assets of a natural person may not be subject to a legal mortgage;

3) it shall be prohibited for a natural person to dispose of his assets (sell or otherwise transfer the assets or enter into other transactions), except for the cases defined by this Law.

Such assets may be disposed of by a bankruptcy administrator according to the procedure established by this Law;

4) a bankruptcy administrator shall, without delay, open a deposit account with a credit institution in his own name to be used for meeting claims of the creditors of a natural person (hereinafter: 'a deposit account'). Funds in the deposit account shall be disposed of by the bankruptcy administrator;

5) a natural person shall pursue individual activity and/or farmer activities until the effect day of a decision approving the plan only with court approval, provided that such activities reduce damages incurred by creditors because of bankruptcy. Individual activity and/or farmer activities that do not reduce damages of creditors resulting from bankruptcy shall be terminated. Claims arising from individual activity and/or farmer activities in relation to outstanding obligations and liabilities shall be approved after discontinuation of individual activity and/or farmer activities of the natural person and satisfied according to the procedure established in Article 29 of this Law;

6) a natural person shall dispose of the funds in a single account with one credit institution, except for the cases where the natural person, in accordance with the procedure established by laws, pursues individual activity and/or farmer activities that require a separate account/accounts with a credit institution/institutions.

6. A bankruptcy administrator, having opened a deposit account, shall inform a relevant credit institution of the right of a natural person to receive statements of the deposit account and, no later than within three working days of the opening of the deposit account, provide the natural person with its data.

7. A natural person shall, as soon as possible after the receipt of the data referred to in paragraph 6 of this Article, transfer the amount indicated in point 4 of paragraph 3 of this Article to the deposit account designated by a bankruptcy administrator for the purposes of bankruptcy procedures.

8. Funds of third parties kept by a natural person pursuing individual activity entitled to keep funds of third parties according to legal acts shall not be included in the assets of this natural person.

9. Taxes shall be calculated and paid according to the procedure established by laws, however extrajudicial recovery of outstanding taxes shall be prohibited.

Article 7. Plan requirements

1. The plan shall indicate the following:

1) reasons for which a natural person is unable to meet creditors' claims;

2) funds, including salary, remuneration for the use of copyright, right over an invention, dividends and other income from legal persons of which a natural person is a member, inheritance, etc., except for the proceeds from the sale of the assets, which the natural person plans to receive periodically or in lump sums over the entire bankruptcy process;

3) list of the assets of a natural person planned to be sold, including pledged assets, which may be subject to recourse, the order of priority and dates of selling of the assets, and the expected sale price at the time of the drawing up of the plan;

4) planned receivables from the debtors of a natural person;

5) other measures aimed at restoring solvency of a natural person (professional reorientation, employment, etc.);

6) monthly amount planned to be allocated in order to meet the basic needs of a natural person (it shall be separately indicated which specific needs of the natural person and/or his dependants funds will be allocated for, including amounts intended for payment of taxes during the bankruptcy process according to the procedure established by legal acts);

7) amount of bankruptcy administrative expenses and substantiation thereof;

8) list of agreements and contracts, including lease, agreements of use, etc., which have not expired and are planned to be continued by a natural person;

9) list of agreements and contracts, including lease, agreements of use, etc., which have not expired and are planned to be terminated by a natural person, also the list of creditors' claims arising as a result of such termination;

10) list of creditors containing the data referred to in Article 4(4)(5) of this Law;

11) assistance of creditors referred to in Article 24(4) of this Law;

12) schedule for satisfying creditors' claims specifying amounts to be paid to each creditor at least on a semi-annual basis and over the entire bankruptcy process (according to the order of priority and procedure for meeting creditors' claims indicated in Article 29 of this Law).

2. In addition to the data specified in paragraph 1 of this Article, the plan for a natural person engaging or planning to pursue individual activity and/or farmer activities according to the procedure established by laws shall also indicate the following:

1) amounts that the natural person plans to periodically receive from individual activity and/or farmer activities over the period of the bankruptcy process;

2) list of the assets required for pursuing individual activity and/or farmer activities;

3) amounts allocated for pursuing individual activity and/or farmer activities.

3. The amount determined for the basic needs of a natural person and/or his dependants maintained according to the procedure established by legal acts may not be less than the amount

that would remain for the natural person after deductions made according to the Code of Civil Procedure.

4. All amounts and their totals included in the plan shall be indicated in Litas.

5. The period of implementation of the plan shall be no more than five years. Where pre-trial investigation bodies are addressed in relation to the establishment of the actions of a natural person corresponding to the elements of a criminal act defined by Articles 207, 208, 209, 216, 222 and 223 of the Criminal Code, a court may, taking into account the facts of the case, extend the period of implementation of the plan until declining to launch a pre-trial investigation or the termination of a pre-trial investigation, or the effect of a judgment in a criminal case.

Article 8. Approval of the Plan

1. A natural person must, no later than within 15 days of the effect day of a court decision approving creditors' claims, provide a bankruptcy administrator with a draft plan.

2. Upon the receipt of a draft plan, a bankruptcy administrator shall:

1) no later than within five days of the receipt of the draft plan, draw up a written conclusion on the feasibility of the draft plan (hereinafter: 'the conclusion') and submit it to a natural person;

2) no less than 20 days before a planned meeting of creditors, provide each creditor of a natural person with the conclusion and the draft plan and, having agreed with the natural person on the venue and time of the meeting, convene the meeting of creditors in order to approve the draft plan.

3. Where the meeting of creditors disapproves a draft plan on the grounds of its non-conformity to the requirements of Article 7 of this Law, the draft plan may be revised and re-submitted to the meeting of creditors. Where the meeting of creditors disapproves the draft plan without indicating any reason or on the grounds that are not related to the revision of the draft plan according to the requirements of Article 7 of this Law, the draft plan shall be submitted to a court in accordance with paragraphs 4 and 5 of this Article.

4. The chairman of the meeting of creditors shall submit the minutes of the meeting of creditors to a bankruptcy administrator within five working days of the meeting. Upon the receipt of the minutes of the meeting of creditors, the bankruptcy administrator shall, no later than within three working days, submit to a court the minutes and a draft plan accompanied by the conclusion.

5. A draft plan shall be submitted for approval by a court no later than within four months of the effect day of the decision to open personal bankruptcy proceedings. In the case of contesting of creditors' claims in court or revising of the draft plan, the court shall, at the request

of a bankruptcy administrator or a natural person, have the right to extend the period indicated in this paragraph, but not more than for a month.

6. Upon the receipt of the documents specified in paragraph 4 of this Article, a court shall, within 15 days, adopt a decision concerning the plan by a written procedure. In the case defined in paragraph 3 of this Article, the court shall adopt the decision concerning the plan by an oral procedure.

7. A court may disapprove the plan where it establishes any non-compliance with the provisions of paragraphs 1-4 of this Article and faults have not been eliminated within a definite period.

8. In the event defined in paragraph 3 of this Article, a court may approve the plan taking into consideration the conclusion of a bankruptcy administrator, also the rights and legitimate interests of an insolvent natural person and his creditors.

9. A court decision is definitive and not subject to appeal where a draft plan is approved by the meeting of creditors.

10. Upon the court's approval of the plan:

1) a bankruptcy administrator shall dispose of the assets of a natural person and the funds in a deposit account according to the procedure established in the plan, except as provided by this Law;

2) a natural person shall notify persons concerned of the eventual termination of agreements which were signed by the natural person before the opening of bankruptcy proceedings, have not expired, but are to be terminated according to the plan. Creditors' claims arising in this relation shall be satisfied according to the procedure established by Article 29 of this Law.

11. A natural person and a bankruptcy administrator shall be responsible, within their remit, for the implementation of the plan approved by a court.

12. Amendments to the plan shall be reviewed and approved in accordance with the same procedure as in the case of the plan.

Article 9. Simplified Procedure for the Opening of Personal Bankruptcy Proceedings

1. Personal bankruptcy proceedings may be opened in accordance with a simplified procedure provided that a draft plan is drawn up in accordance with the provisions of this Law before filing a personal bankruptcy petition with a court.

2. In the case of a simplified procedure for the opening of bankruptcy proceedings, a personal bankruptcy petition submitted by a natural person to a court shall be accompanied by the following:

- 1) documents and data specified in Article 4(4)(1), (2), (3), (4) and (7) of this Law;
- 2) draft plan;
- 3) documents proving that a draft plan has been approved by creditors the total value of the claims of which, according to the data of the natural person, exceeds a half of the value of the claims of all creditors, or documents proving that the draft plan has not received the approval of creditors.

3. When submitting his personal bankruptcy petition to a court, a natural person shall nominate a candidate for the position of a bankruptcy administrator. When nominating a candidate for the position of the bankruptcy administrator, the natural person shall submit a consent defined in Article 4(5) of this Law.

4. Upon the receipt of documents specified in paragraphs 2 and 3 of this Article, a court shall, no later than within one month of a decision concerning a personal bankruptcy petition, examine them and take a decision to open personal bankruptcy proceedings, approve the plan and appoint a bankruptcy administrator or to decline to open personal bankruptcy proceedings. The court shall be entitled, for serious reasons, to extend the period of preparation for personal bankruptcy proceedings, but not longer than for 15 days. In the event of the opening by the court of personal bankruptcy proceedings according to a simplified procedure or declining to open bankruptcy proceedings, the provisions of Article 5(1), (2), (3), (7), (8) and (9), Article 6(1) and (2), Article 6(3)(1) and (2), Article 6(4), Article 6(5)(1), (2), (3), (4) and (6) and Article 6(6), (8) and (9) of this Law shall apply *mutatis mutandis*.

5. A decision to open personal bankruptcy proceedings specified in paragraph 4 of this Article shall also be considered to approve creditors' claims. This decision may be subject to a separate appeal according to the procedure established by legal acts. A separate appeal must be heard by a court within 30 days of its receipt by a court of appeals.

Article 10. Discontinuation of Personal Bankruptcy Proceedings

1. A court shall take a decision to discontinue personal bankruptcy proceedings provided that at least one of the following conditions is met:

- 1) the plan is not submitted for court approval within the defined period;
- 2) a court does not approve the plan;

3) it is established that a natural person has provided false information about his assets, income, liabilities, insolvency reasons, etc., as a result of which the implementation of measures included in the plan might fail;

4) it is established that a natural person became insolvent within three years preceding the opening of bankruptcy proceedings or was unable to restore his solvency upon the opening of bankruptcy proceedings in relation to the actions indicated in Article 5(8)(2) of this Law or additions specified in Article 5(8)(3) of this Law.

5) it is established that a natural person has been imposed a penalty for a crime or misdemeanour defined by Articles 207, 208, 209, 216, 222 and 223 of the Criminal Code and his conviction has not expired, if this is the reason for his insolvency;

6) a natural person conceals from a bankruptcy administrator any funds and other property received during the bankruptcy process, the value of which exceeds the monthly amount of a base social benefit, and this may impair creditors' interests or have impact on the restoration of the solvency of the natural person;

7) bankruptcy proceedings are opened against a legal person with unlimited civil liability of which a natural person is a member;

8) a natural person fails to comply with the requirements of this Law;

9) a natural person dies;

10) in other cases defined by this Law.

2. A court may take a decision to discontinue personal bankruptcy proceedings where the implementation of the measures included in the plan fails, and, as a result, creditors the total value of whose claims exceeds 2/3 of the amount of creditors' claims approved by the court request the court to discontinue personal bankruptcy proceedings.

3. Upon the termination of bankruptcy proceedings in cases defined in paragraphs 1 and 2 of this Article, all taxes and related amounts, interest and penalties shall accrue of the effect day of a decision to open bankruptcy proceedings, except for liabilities that have been already met.

CHAPTER THREE

BANKRUPTCY ADMINISTRATOR

Article 11. Appointment of a Bankruptcy Administrator

1. A bankruptcy administrator shall be appointed by a court.

2. The right to nominate a candidate for the position of a bankruptcy administrator shall be granted to a natural person and/or creditor/creditors. Where the natural person does not nominate a candidate for the position of a bankruptcy administrator, a court shall appoint a

bankruptcy administrator nominated by an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in accordance with the procedure established by the Government. In the case of the opening of personal bankruptcy proceedings by a simplified procedure, the natural person must, at the time of submission to the court of a personal bankruptcy petition, nominate a candidate for the position of a bankruptcy administrator.

3. The following persons may not be appointed a bankruptcy administrator:

- 1) creditor of a natural person or a person having labour relations with the creditor;
- 2) close relatives of a natural person, as defined by Article 3.135 of the Civil Code;
- 3) persons related to a natural person by affinity, as defined by Article 3.136 of the Civil Code;
- 4) spouse or cohabitee of a natural person;
- 5) person having labour relations with a natural person or a person with whom labour relations were terminated within the last 36 months before the opening of personal bankruptcy proceedings.

4. Restrictions defined in paragraph 3 of this Article in relation to a bankruptcy administrator shall apply to the manager of a legal person as a bankruptcy administrator, his deputies, chief accountant, members of the collegial management body of that legal person and staff of the legal person providing administration services.

5. A bankruptcy administrator may not have interest in the outcome of the bankruptcy process.

Article 12. Duties and Rights of a Bankruptcy Administrator

1. From the effect day of a court decision to open personal bankruptcy proceedings to the day of a court decision approving the plan, a bankruptcy administrator shall:

- 1) dispose of the assets of a natural person and funds in the deposit account according to the procedure established by this Law;
- 2) keep the record of all amounts received by a natural person and their use;
- 3) convene meetings of creditors;
- 4) participate in meetings of creditors without the voting right;
- 5) provide data and information about a natural person's bankruptcy process to an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in the form of reports, as specified by this institution;

6) act for a natural person (or authorise another person to act for him) in proceedings opened before the opening of the bankruptcy proceedings in relation to recovery of assets from other persons in favour of the natural person;

7) request a court to discontinue personal bankruptcy proceedings on the grounds established by Article 10(1)(4), (5), (6) and (8) of this Law;

8) organise and carry out other procedures defined by this Law.

2. Upon the effect of a court decision approving the plan, a bankruptcy administrator shall:

1) dispose of the assets of a natural person and funds in the deposit account according to the procedure established by the plan;

2) make payments to creditors included in the plan;

3) keep the record of all amounts received by a natural person and their use;

4) convene meetings of creditors;

5) participate in meetings of creditors without the voting right;

6) report to a court, creditors at the creditors' meeting and a natural person on the progress of the implementation of the plan at least on a semi-annual basis;

7) provide data and information about a natural person's bankruptcy process to an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in the form of reports, as specified by this institution;

8) take measures to recover debts from debtors;

9) protect the rights and legitimate interests of a natural person and all creditors;

10) carry out other decisions of a court and/or the meeting of creditors;

11) where amounts received from a natural person are insufficient for payments included in the plan, convene the meeting of creditors and suggest considering the possibility of bringing forward proposals to the natural person for the revision of the plan and/or request a court to discontinue personal bankruptcy proceedings;

12) where amounts received from a natural person significantly exceed payments included in the plan, convene the meeting of creditors and suggest considering the possibility of bringing forward proposals to the natural person for the revision of the plan and/or request a court to discontinue personal bankruptcy proceedings;

13) assess the efficacy of individual activity and/or farmer activities in which a natural person is engaged and, having established that the activities are loss-making, immediately convene a meeting of creditors;

14) request a court to discontinue personal bankruptcy proceedings on the grounds established by Article 10(1)(3), (4), (5), (6) and (8) of this Law;

15) submit documents to the Guarantee Fund for the allocation of funds in order to meet claims of employees arising from labour relations;

16) perform other functions set out in this Law.

3. A bankruptcy administrator shall, no later than within six months of the receipt of documents concerning entering into transactions by a natural person, verify the transactions made by the natural person within no less than 36 months preceding the opening of bankruptcy proceedings and file claims with the court hearing personal bankruptcy proceedings concerning the recognition of the transactions that could have had an effect on the natural person's ability to meet liabilities in respect of his creditors as invalid. In this case, it shall be considered that the bankruptcy administrator became aware of the transactions on the day of receipt of the documents concerning entering into these transactions. The bankruptcy administrator shall submit a reasoned request to pre-trial investigation bodies to establish actions of the natural person that correspond to the elements of a criminal act defined by Articles 207, 208, 209, 216, 222 and 223 of the Criminal Code.

4. During the personal bankruptcy process, a bankruptcy administrator shall have the right:

1) to receive from a natural person and review all documents related to the personal bankruptcy process;

2) to inspect, as part of bankruptcy procedures, premises managed by a natural person by the right of ownership or on other grounds and, subject to the consent of persons living with the natural person in a living space, residential premises managed by a natural person by the right of ownership or on other grounds;

3) to provide assistance to a natural person when preparing a draft plan or draft amendments;

4) to request that a court recognises resolutions of the meeting of creditors as invalid;

5) to receive information about the assets and income of a natural person from state and departmental registers, credit institutions and public information systems.

5. An effective court decision to open personal bankruptcy proceedings shall provide a basis for carrying out of personal bankruptcy procedures by a bankruptcy administrator.

6. A bankruptcy administrator who has forfeited the right to provide enterprise bankruptcy administration or restructuring services shall not be allowed to carry out personal bankruptcy procedures as of the specified date of forfeiture of the right.

Article 13. Civil Liability Insurance and Supervision of Activities of a Bankruptcy Administrator

1. Professional civil liability of a bankruptcy administrator for damage caused to natural or legal persons as a result of personal bankruptcy procedures and exceeding LTL 1,000 shall be covered by compulsory professional civil liability insurance.

2. The object of compulsory professional civil liability insurance of a bankruptcy administrator shall be the civil liability of the bankruptcy administrator for damage caused by unlawful actions of the bankruptcy administrator and/or employees thereof taken in the course of personal bankruptcy procedures during the period of the insurance contract.

3. An insured event shall mean any unlawful action (act or omission) of a bankruptcy administrator and/or employees thereof taken in the course of personal bankruptcy procedures during the period of the insurance contract, which provides a basis for civil liability of the insured, and filing of a claim of damage in accordance with the standard terms and conditions of compulsory professional civil liability insurance of a bankruptcy administrator.

4. A bankruptcy administrator shall be covered by compulsory professional civil liability insurance under a compulsory professional civil liability insurance contract of a bankruptcy administrator. The policyholder of compulsory professional civil liability insurance of a bankruptcy administrator shall be a bankruptcy administrator. The minimum sum insured of compulsory professional civil liability insurance of a bankruptcy administrator shall be LTL 100,000 per insured event and LTL 200,000 for all insured events over a year. Upon payment of an insurance benefit in the case of an insured event and reduction of the minimum sum insured indicated in this Article, the bankruptcy administrator must, within one month, get civil liability insurance in order to restore the compulsory minimum sum insured.

5. A bankruptcy administrator may also arrange additional professional civil liability insurance of a bankruptcy administrator for damage caused to natural or legal persons in the course of personal bankruptcy procedures.

6. An insurer entitled to provide compulsory professional civil liability insurance of bankruptcy administrators on the territory of the Republic of Lithuania must sign a compulsory professional civil liability insurance contract with a bankruptcy administrator who has submitted an application and all data and documents necessary for making this contract. The standard rules for compulsory professional civil liability insurance of bankruptcy administrators shall be approved by the Government of the Republic of Lithuania or an institution authorised thereby.

7. For the purposes of personal bankruptcy procedures, a bankruptcy administrator must submit a copy of the compulsory professional civil liability insurance policy of a bankruptcy administrator to a court and an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law. A copy of the compulsory professional civil liability insurance policy of a newly appointed bankruptcy administrator shall be immediately

delivered to the court and the institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law.

8. Where an insurance benefit is not sufficient to fully cover the damage caused by a bankruptcy administrator, the bankruptcy administrator shall pay the difference between the actual amount of damage and the insurance benefit.

9. During the personal bankruptcy process, activities of a bankruptcy administrator shall be controlled by an institution authorised by the Government of the Republic of Lithuania. For the purposes of supervision during the personal bankruptcy process, the provisions of the Enterprise Bankruptcy Law shall apply *mutatis mutandis* where personal bankruptcy procedures are carried out by a natural or legal person or a division/branch of the legal person having the right to provide enterprise bankruptcy administration services. For the purposes of supervision during the personal bankruptcy process, the provisions of the Law on Restructuring of Enterprises shall apply *mutatis mutandis* where personal bankruptcy procedures are carried out by a natural or legal person or a division/branch of the legal person having the right to provide enterprise restructuring administration services.

Article 14. Removal of a Bankruptcy Administrator

1. A court shall take a decision concerning the removal from office of a bankruptcy administrator and appointment of a new bankruptcy administrator in accordance with the procedure established by this Law in the following cases:

1) the bankruptcy administrator files with the court an application for his resignation approval;

2) the court receives information that the bankruptcy administrator has forfeited the right to provide enterprise bankruptcy administration or enterprise restructuring administration services, and the bankruptcy administrator and/or a natural person has failed to file with the court a request for the removal from office of this bankruptcy administrator. In this case, the court shall make a decision concerning the removal from office of the bankruptcy administrator and appointment of a new bankruptcy administrator no later than within 15 days of the receipt of information.

2. A court may take a decision concerning the removal of a bankruptcy administrator and appointment of a new bankruptcy administrator in accordance with the procedure established by this Law in the following cases:

1) a natural person files a reasoned request for the removal from office of the bankruptcy administrator and proposes a new candidate for the position of a bankruptcy administrator;

2) the meeting of creditors or a creditor/creditors the value of whose claims, as approved by the court, makes more than a half of the total amount of claims of all creditors, submit to the court a reasoned request for the removal from the bankruptcy administrator.

3. A bankruptcy administrator shall give a notice of his intention to file a request for his resignation to a natural person and the chairperson of the meeting of creditors no later than 10 days before the submission of the request to a court. Where the bankruptcy administrator forfeits the right to provide enterprise bankruptcy administration or enterprise restructuring administration services, he shall, no later than on the working day following the day on which he became aware of his forfeiture of the right to provide enterprise bankruptcy administration or enterprise restructuring administration services, file with a court/courts a request for his resignation from all bankruptcy procedures administered thereby in relation to the natural person and submit a copy of the request to the natural person and the chairperson of the meeting of creditors. The natural person and/or the chairperson of the meeting of creditors may, no later than within five working days of the receipt of the notice of the bankruptcy administrator or of information about the forfeiture of the bankruptcy administrator's right to provide enterprise bankruptcy administration or enterprise restructuring administration services, propose to the court a new candidate for the position of a bankruptcy administrator in accordance with the procedure established by this Law. Where the natural person does not nominate a candidate for the position of a bankruptcy administrator, the court shall appoint a bankruptcy administrator nominated by an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in accordance with the procedure established by the Government.

4. A court decision concerning the removal from office of a bankruptcy administrator and appointment of a new bankruptcy administrator shall contain the following information:

- 1) data of the newly appointed bankruptcy administrator indicated in Article 4(5) of this Law;
- 2) period during which the bankruptcy administrator must transfer all documents related to the personal bankruptcy process to the newly appointed bankruptcy administrator;
- 3) number of the deposit account and the name of a credit institution with which the deposit account is opened.

5. A separate appeal against a court decision concerning the removal from office of a bankruptcy administrator and appointment of a new bankruptcy administrator shall be heard by a court of appeals no later than within 14 days of the filing of the separate appeal. Statements in response to separate appeals may be filed within seven working days of the dispatch of a copy of

a separate appeal to the parties involved in the proceedings. A decision of a court of appeals shall be definitive and not subject to appeal on a point of law.

6. Where a removed bankruptcy administrator fails, without valid reason, to transfer documents related to the personal bankruptcy process, whether fully or partially, within the period set by a court, the court may impose a penalty of up to LTL 10,000 on the removed bankruptcy administrator.

7. A court shall, no later than on the working day following the effect day, send a copy of a decision referred to in paragraph 4 of this Article to:

1) credit institution with which a removed bankruptcy administrator has a deposit account;

2) newly appointed bankruptcy administrator;

3) institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law, which must, no later than on the day following the receipt of the said copy of the decision, publish the data of a newly appointed bankruptcy administrator on its website according to the procedure established by the Government of the Republic of Lithuania or an institution authorised thereby;

4) natural person;

5) removed bankruptcy administrator.

8. An effective court decision concerning the removal from office of a bankruptcy administrator and appointment of a new bankruptcy administrator shall provide a basis for a credit institution with which a deposit account is opened to change the account holder from the bankruptcy administrator removed by a court or resigned to a newly appointed bankruptcy administrator. The newly appointed bankruptcy administrator shall, without delay, request that the credit institution changes the deposit account holder.

9. In the event of the death of a bankruptcy administrator being a natural person, a natural person shall, having agreed with the chairperson of the meeting of creditors, propose to a court a candidate for the position of a newly appointed bankruptcy administrator no later than within three working days of the moment of his becoming aware of the death of the bankruptcy administrator. If no agreement is reached as regards a candidate for the position of a new bankruptcy administrator, another candidate for the position of a bankruptcy administrator may be nominated by the decision of the meeting of creditors. The court shall make a decision concerning the appointment of a bankruptcy administrator no later than within three working days of the receipt of the proposal of the natural person or the meeting of creditors. This court decision shall *mutatis mutandis* be governed by the provisions of points 1 and 3 of paragraph 4 and paragraphs 5 and 7 of this Article. In this case, the natural person and a representative of an

institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law shall be present during the transfer by a newly appointed bankruptcy administrator of the documents related to the personal bankruptcy process.

Article 15. Liability of a Bankruptcy Administrator

A bankruptcy administrator must, in accordance with the procedure established by laws, pay damages caused by the non-performance or improper performance of duties thereof.

CHAPTER FOUR

DUTIES AND RIGHTS OF A NATURAL PERSON DURING THE BANKRUPTCY PROCESS

Article 16. Duties of a Natural Person during the Bankruptcy Process

During the bankruptcy process, a natural person must:

- 1) responsibly manage and use the assets in his possession from the filing with a court of his personal bankruptcy petition to the effect day of a court decision to open personal bankruptcy proceedings;
- 2) submit a draft plan to a bankruptcy administrator within the time limit defined in Article 8(1) of this Law;
- 3) provide a bankruptcy administrator with all documents related to the bankruptcy process;
- 4) deposit all cash received, such as remuneration for the use of the natural person's copyright, use of the right over the natural person's invention, inherited amounts, money won, awards, gifts, bonuses and other amounts, into the personal account held with a credit institution no later than within five working days of their receipt, provided that the total amount exceeds a half of the monthly base social benefit;
- 5) transfer money, following the effect day of a court decision approving the plan, to a deposit account in accordance with the plan in order to satisfy creditors' claims and cover bankruptcy administrative expenses;
- 6) notify a bankruptcy administrator of the change of the financial standing, including increase of income, inheritance, winning of money and/or valuables, receipt of awards, gifts, etc. or decrease of income and other cases, no later than within ten working days of the change;
- 7) provide requested information and/or documents at a written request of a bankruptcy administrator no later than within ten days of the receipt of the said request;

8) notify a bankruptcy administrator of a new address of the place of residence no later than within five days;

9) nominate a candidate for the position of an appointed bankruptcy administrator in the case and according to the procedure defined in Article 14(9) of this Law;

10) work or engage, within the limits of his abilities, in other income generating activities or actively seek employment or a better paid job;

11) provide, at least on a quarterly basis, a bankruptcy administrator with statements of accounts from credit institutions. Where the natural person pursuing individual activity and/or farmer activities has a non-deposit account for the purposes of individual activity and/or farmer activities, he must also provide the bankruptcy administrator with statements according to the same procedure;

12) properly implement measures and/or engage in activities included in the plan;

13) cooperate with a bankruptcy administrator in arranging bankruptcy procedures;

14) take other actions defined by this Law.

Article 17. Rights of a Natural Person during the Bankruptcy Process

During the bankruptcy process, a natural person shall be entitled to:

1) prepare and submit to a bankruptcy administrator a revised version of the plan in the event of circumstances which accelerate restoration of the solvency of the natural person or impede the implementation of the plan;

2) receive information from a bankruptcy administrator about the sale of his assets;

3) receive information from a bankruptcy administrator about the use of his funds;

4) attend meetings of creditors;

5) receive deposit account statements from a credit institution in relation to the use of funds;

6) continue or undertake individual activity and/or farmer activities, if any provided for in the plan;

7) apply to a court for the removal of a bankruptcy administrator, payment of damages and appointment of a new bankruptcy administrator, where it transpires that the bankruptcy administrator used the funds for purposes other than defined in the plan, infringed other rights of the natural person or acted against his legitimate interests;

8) request that a court recognises resolutions of the meeting of creditors as invalid;

9) assume liabilities as regards bankruptcy procedures from the effect day of a court decision to open personal bankruptcy proceedings to the effect day of a decision approving the plan, provided that the natural person has no funds or the funds are insufficient to cover the

amount indicated in Article 6(3)(4) of this Law. Creditors' claims arising in this relation shall be satisfied according to the procedure established by Article 29 of this Law;

10) use incoming amounts for meeting his basic needs and pursuing individual activity and/or farmer activities in accordance with the plan;

11) take other actions defined by this Law.

CHAPTER FIVE

PROTECTION OF INTERESTS OF A NATURAL PERSON, CREDITORS AND THIRD PARTIES DURING THE PERSONAL BANKRUPTCY PROCESS

Article 18. Disposal of the Assets of a Natural Person

1. A natural person shall responsibly manage and use all available assets from the filing with a court of a personal bankruptcy petition to the effect day of a court decision to open personal bankruptcy proceedings. The natural person shall be prohibited from taking actions or entering into transactions which would impair his financial standing or threaten creditors' interests.

2. A bankruptcy administrator shall dispose of the assets of a natural person from the effect day of the court decision to open personal bankruptcy proceedings, except as provided for by this Law. Persons who have leased, borrowed, are safekeeping or using or managing the assets of the natural person on other grounds shall be prohibited from entering into transactions with third parties in relation to such assets.

3. A bankruptcy administrator shall, as of the effect day of a court decision approving the plan, dispose of the assets of a natural person included in the plan and funds in a deposit account in accordance with the plan. No creditor of the natural person or other person shall have the right to take over the assets and funds owned by the natural person in the manner other than prescribed by this Law.

4. All transactions entered into in breach of the provisions of paragraphs 1, 2 and 3 of this Article shall be invalid as of the moment of entry into such transactions.

5. Claims of a bankruptcy administrator in relation to the recognition of transactions entered into by a natural person before the opening of bankruptcy proceedings as invalid shall be heard by courts having jurisdiction over the place of residence of the natural person.

Article 19. Time Limits for the Payment of Debts of a Natural Person

As of the effect day of a court decision to open personal bankruptcy proceedings, all time limits of debt payment by a natural person shall be deemed to have expired. This provision shall

become invalid as of the effect day of a court decision to discontinue personal bankruptcy proceedings.

Article 20. Delivery of Writs of Seizure and Writs of Execution

1. A bailiff shall, no later than within 15 days of the effect day of a court decision to open personal bankruptcy proceedings, deliver to a court hearing the bankruptcy case writs of seizure of the assets of a natural person which were seized before the opening of personal bankruptcy proceedings in order to enforce the decisions taken by courts and other institutions, but were not sold, and writs of execution in relation to debt recovery from the natural person and shall notify thereof the custodian of the assets and a relevant claimant. Where in the course of enforcement an auction participant's fee is paid before the effect day of a court decision to open personal bankruptcy proceedings, the court may, having heard the opinion of creditors and the natural person, permit the completion of enforcement procedures commenced in relation to debt recovery and authorise the bailiff to transfer the proceeds to a deposit account.

2. Creditor's claims that arose before the opening of personal bankruptcy proceedings, but were not satisfied by a bailiff through enforcement shall be satisfied in accordance with the procedure established by this Law.

3. Where a bailiff fails to submit to a court documents indicated in paragraph 1 of this Article within the defined time limit, the court may impose on him a fine of up to LTL 10,000.

4. Matters concerning seizure referred to in paragraph 1 of this Article shall be dealt with by a court hearing the personal bankruptcy case. Pending the lifting of seizure, the custodian of the assets shall have all the rights and duties related to the protection of the assets.

Article 21. Regulation of Labour Relations

The provisions of the Enterprise Bankruptcy Law governing labour relations during the enterprise bankruptcy process shall *mutatis mutandis* apply during the personal bankruptcy process.

Article 22. Administrative Expenses

1. Bankruptcy administrative expenses shall include expenses required for the completion of bankruptcy procedures, such as sale and safekeeping of assets, transport, communication, office expenses and other expenses approved by the meeting of creditors, and the remuneration of a bankruptcy administrator.

2. The estimate of bankruptcy administrative expenses shall be approved and revised by the meeting of creditors. Bankruptcy administrative expenses shall be paid at least on a quarterly basis.

3. A first meeting of creditors approving a draft plan shall set the amount to be paid to a bankruptcy administrator for the carrying out of personal bankruptcy procedures during the bankruptcy process, including the period from the effect day of a court decision to open personal bankruptcy proceedings. The amount set in the period from the effect day of a court decision to open personal bankruptcy proceedings to the effect day of a decision approving the plan shall not exceed 3 MMWs.

4. The remuneration amount of a bankruptcy administrator shall be set in an assignment agreement between a natural person and a bankruptcy administrator taking into account the engagement of the natural person in individual activity and/or farmer activities, the type and amount of the assets of the natural person to be sold, including pledged assets, also the extent and complexity of bankruptcy procedures.

5. Bankruptcy administrative expenses shall be covered using all types of funds owned by a natural person, including proceeds from the sale and/or transfer of the assets of the natural person, debts paid to the natural person, proceeds from individual activity and/or farmer activities and other amounts received during the personal bankruptcy process. Upon the sale or transfer of the pledged assets, no more than 15% of the proceeds or of the value of such assets may be used to pay bankruptcy administrative expenses, unless the pledgee or mortgage creditor agrees otherwise. Bankruptcy administrative expenses shall be covered first.

CHAPTER SIX

RIGHTS AND DUTIES OF CREDITORS

DURING THE PERSONAL BANKRUPTCY PROCESS

Article 23. Creditors' Claims and Their Approval

1. Upon the opening of personal bankruptcy proceedings in court, creditors shall have the right, within the period set by a court, to bring to a bankruptcy administrator their claims that arose before the day of opening of personal bankruptcy proceedings. When bringing their claims to the bankruptcy administrator, creditors shall also provide supporting documents and specify how a natural person has secured that these claims are met.

2. A bankruptcy administrator shall compile a list of creditors and their claims on the basis of claims brought by creditors and revised according to documents provided by a natural person and, no later than within 15 days of the expiry of the time limit set by the court for

bringing of creditors' claims, submit the list to the court for approval and contest unfounded creditors' claims in court.

3. A court shall accept and approve creditors' claims that arose before the opening of personal bankruptcy proceedings and filed directly with the court after the expiry of the time limit set in paragraph 1 of this Article for filing of claims to a bankruptcy administrator, provided that the court finds the reasons for a delay significant and claims founded. The court shall also accept and approve creditors' claims that arose after the opening of personal bankruptcy proceedings out of individual activity and/or farmer activities and/or in relation to liabilities referred to in Article 17(9) of this Law.

4. In the course of the personal bankruptcy process, creditor's claims may be assigned to another creditor or person. The order of priority of claims defined in Article 29 of this Law shall not change.

5. The matter of approval of creditors' claims contested by a bankruptcy administrator shall be resolved by a court at a court sitting subject to a notice to the bankruptcy administrator and persons whose claims are contested.

6. A court shall make a decision to approve or decline to approve creditors' claims no later than within 20 days of the receipt of a list of creditors and their claims. A court decision to approve or to decline to approve creditors' claims may be appealed against by filing a separate appeal in accordance with the procedure prescribed by legal acts. A separate appeal must be heard by a court within 30 days of its receipt by a court of appeals.

7. Revisions of a list of creditors and their claims related to the personal bankruptcy process, including outstanding tax payments, debt to dismissed employees, dependants, etc., shall be approved by a court decision before a court makes a decision to discontinue or close personal bankruptcy proceedings.

8. Where after the opening of bankruptcy proceedings a tax administrator performs set-off under the provisions of tax laws for the set-off of tax overpayment/difference, claims to be filed with a court for approval shall be reduced by the amount set off.

9. Where a court makes a decision concerning the revision of a list of creditors and their claims, the plan shall be revised in accordance with the procedure defined by this Law.

Article 24. Rights of Creditors during the Personal Bankruptcy Process

Creditors whose claims have been approved by a court shall have the right:

- 1) to request that their claims are satisfied in accordance with the plan;
- 2) to attend meetings of creditors and defend their interests;

3) to receive, in accordance with the procedure laid down by the meeting of creditors, from a bankruptcy administrator information about the progress of bankruptcy proceedings;

4) to provide assistance in relation to the discharge of liabilities that occurred before the opening of and/or during personal bankruptcy proceedings, that is to extend time limits set for the satisfaction of claims, waive part of or all claims, replace the pecuniary obligation with another obligation, i.e. by allowing a natural person to pay by assets or meet the obligation by paying in kind. Institutions acting for the State as a creditor shall provide such an assistance in accordance with the procedure established by legal acts;

5) to claim, according to the procedure established by legal acts, payment of damages caused by a natural person or a bankruptcy administrator during the personal bankruptcy process;

6) to put forward proposals to a natural person and a bankruptcy administrator in relation to the plan;

7) to address the meeting of creditors in relation to the activities or replacement of a bankruptcy administrator and/or propose another candidate for the position of a bankruptcy administrator;

8) to appeal in court against resolutions of the meeting of creditors within 14 days of the day on which they became aware or should have become aware of such resolutions;

9) to request a court to discontinue bankruptcy proceedings against a natural person on the grounds of Article 10(1)(3), (4), (5), (6) and (8) of this Law;

10) to file with a court a reasoned request for the removal from office of a bankruptcy administrator and propose a new candidate for the position of a bankruptcy administrator, provided that the claims of a creditor/creditors approved by a court, in terms of value, account for more than a half of the amount of approved claims of all creditors;

11) to perform, at any time during the personal bankruptcy process, set-off under the provisions of tax laws concerning set-off of tax overpayment/difference;

12) to deal with other matters that, according to this Law, fall within the remit of the meeting of creditors.

Article 25. Meeting of Creditors

1. A first meeting of creditors must be held no later than within 40 days of the effect day of a court decision approving creditors' claims. The first meeting of creditors shall elect a chairperson of the meeting of creditors. Only a creditor or his authorised representative may be the chairperson of the meeting of creditors. The chairperson of the meeting of creditors may not be a close relative of a natural person, as defined by Article 3.135 of the Civil Code, or a person related to the natural person by affinity, as defined by Article 3.136 of the Civil Code, a

representative of a legal person of which the natural person is a member or a member of a collegial or a one-man management body, or a spouse or cohabitee of the natural person. This provision shall not apply where such persons are the only creditors. The meeting of creditors shall be chaired by a bankruptcy administrator until the election of the chairperson of the meeting of creditors. Where the chairperson of the meeting of creditors is elected from among a number of candidates, the person who receives the votes of the creditors whose claims approved by a court account for the largest amount shall be deemed elected as chairperson of the meeting of creditors. Where the chairperson of the meeting of creditors is elected in the case of a single candidate, the person who receives the votes of the creditors whose claims approved by a court, in terms of their value, account for more than a half of the amount of all claims of the creditors present at the meeting, as approved by a court, shall be deemed elected as chairperson of the meeting of creditors.

2. Upon the effect of a court decision approving the plan, meetings of creditors shall be convened at least on a semi-annual basis. Meetings of creditors shall be convened by a bankruptcy administrator. The bankruptcy administrator shall give creditors a written ten days' notice of the meeting of creditors also submitting the proposed agenda of the meeting of creditors.

3. A creditor/creditors whose claims, in terms of their value, account for no less than 10% of the amount of all creditors' claims approved by a court shall have the right to submit to a bankruptcy administrator a request for convening the meeting of creditors. The request must indicate the reasons for convening the meeting of creditors and propose an agenda of the meeting. Upon the receipt of the said request, the bankruptcy administrator must, no later than within 15 working days of the receipt of the request, convene the meeting of creditors.

4. The right to attend meetings of creditors shall be granted to creditors or their authorised representatives, a natural person, his spouse or cohabitee or their authorised representatives and a bankruptcy administrator. Only creditors shall be entitled to vote at meetings of creditors. Creditors shall vote at meetings of creditors in an open ballot.

5. A meeting of creditors shall be considered valid if attended by the creditors whose claims account for more than a half of the total amount of all creditors' claims approved by a court or if such creditors submitted their ballot papers at an earlier date.

6. A resolution of the meeting of creditors shall be deemed adopted if voted in favour by the creditors whose claims approved by a court, in terms of their value, account for more than a half of the amount of all claims approved by a court, except for the case defined in Article 10(2) of this Law.

7. A creditor shall be entitled to vote on each draft resolution put on the agenda of the meeting of creditors by submitting a ballot paper before the meeting. These votes shall be taken into account when determining the voting results of the meeting of creditors and notified during the meeting of creditors.

8. In the event of the failure of the meeting of creditors of a natural person for lack of quorum, a bankruptcy administrator must, within 15 days, convene a repeat meeting of creditors. The requirements of paragraph 5 of this Article shall not apply to the repeat meeting of creditors. The repeat meeting of creditors shall have the right to adopt resolutions only in relation to the agenda of the failed meeting.

9. A resolution shall be deemed adopted at a repeat meeting of creditors if voted in favour by the creditors whose claims approved by a court, in terms of their value, account for more than a half of the amount of the claims, as approved by a court, of all creditors who are present at the meeting or delivered ballot papers before the meeting.

10. Minutes of a meeting of creditors shall be signed by the chairperson of the meeting of creditors or a person indicated in Article 26(8) of this Law and the person who has drawn up the minutes. The chairperson of the meeting of creditors must make sure that a copy of the minutes of the meeting of creditors is, no later than within five working days of the meeting of creditors, delivered to a natural person, bankruptcy administrator and court.

11. Resolutions of the meeting of creditors shall be binding on all creditors, a bankruptcy administrator and a natural person. Creditors, the bankruptcy administrator or the natural person shall have the right to appeal against a resolution of the meeting of creditors in court no later than within 14 days of the day on which a creditor, the bankruptcy administrator or the natural person became aware or had to become aware of the adoption of the resolution.

Article 26. Rights of the Meeting of Creditors

The meeting of creditors shall have the following rights:

- 1) to elect the chairperson of the meeting of creditors;
- 2) to handle creditors' complaints concerning the actions of a bankruptcy administrator;
- 3) to request a bankruptcy administrator to submit a report on his activities;
- 4) to approve or revise the estimate of bankruptcy administrative expenses, to establish the procedure for paying bankruptcy administrative expenses and in cases defined by this Law to approve the initial or the regular sale price of the assets;
- 5) to handle matters concerning individual activity and/or farmer activities of a natural person, such as their continuity, commencement, resuming, restriction, discontinuation, etc., and bring forward proposals to the natural person for the revision of the plan;

- 6) to establish how creditors shall be provided by a bankruptcy administrator with information about the progress of the personal bankruptcy process;
- 7) to request a court to replace a bankruptcy administrator;
- 8) to elect a person to chair a meeting of creditors in the absence of the chairperson of the meeting of creditors from the meeting;
- 9) to deal with other issues falling, according to this Law, within the remit of the meeting of creditors.

CHAPTER SEVEN

SALE OF ASSETS DURING THE PERSONAL BANKRUPTCY PROCESS

Article 27. Sale of Assets

1. Assets shall be sold by a bankruptcy administrator in the order and within time limits defined in the plan. The initial selling price of the assets shall be approved by the meeting of creditors on the basis of the selling price of the assets indicated in the plan and the market price of the assets to be sold. Sale of the assets shall commence upon the effect of a court decision approving the plan. Sale of the assets for a lower price than indicated in the plan shall require a written consent of a natural person.

2. Immovable property shall be sold at auction in accordance with the procedure established by the Government of the Republic of Lithuania. As regards another immovable property unsold at two auctions, the selling price, as agreed on with a natural person, and the sale procedure shall be defined by the meeting of creditors taking into consideration the specific aspects of sale of individual types of assets defined in Article 28 of this Law.

3. Pledged assets shall be sold at auction according to the procedure established by the Government of the Republic of Lithuania subject to a notice thereof to a pledgee and/or mortgage creditor. The pledgee and/mortgage creditor may, no later than within 20 days of the auction, propose to the meeting of creditors taking over assets pledged and unsold at this auction for the initial selling price fixed at the auction or, in the event of the failure of an auction as a result of non-payment by a buyer of the full amount within the set time limit, for the purchase price of such assets offered at the auction that is announced failed. Where the price of assets taken over is higher than the claims of the pledgee and/or mortgage creditor approved by a court, the resulting difference must be paid to a deposit account no later than within ten days of the transfer of such assets. Where pledged assets are not sold at two auctions and taken over by the pledgee and/or mortgage creditor, the selling price of the pledged assets and the sale procedure shall be determined by the meeting of creditors. Where a full price is paid by the buyer for the

pledged and purchased assets, the amount due to the pledgee and/or mortgage creditor must, after the deduction of the amount approved by the meeting of creditors to cover administrative expenses related to administration of such assets, which may not be higher than indicated in Article 22(5) of this Law, be credited to an account specified by the pledgee and/or mortgage creditor no later than within ten days of the receipt of the price. In all cases where a bankruptcy administrator transfers pledged and unsold assets to the pledgee and/or mortgage creditor, such a pledgee and/or mortgage creditor shall, no later than within ten days of the transfer of assets, pay administrative expenses indicated in the estimate of bankruptcy administrative expenses approved by the meeting of creditors and related to administration of such assets, which may not exceed the limit set in Article 22(5) of this Law. Mortgage/pledge shall terminate upon the sale of the pledged assets. The bankruptcy administrator shall, in accordance with the procedure established by law, forward information about the termination of mortgage/pledge to a notary public or court (in the case of legal mortgage).

4. Before the start of auction a natural person may find and propose to a bankruptcy administrator a buyer of assets. Where the buyer, before the start of auction, pays to a deposit account the amount which is no less than the initial selling price for which assets are intended to be sold at auction, the auction shall be cancelled.

5. At a creditor's/creditors' request and with the approval of the meeting of creditors, unsold assets may be transferred to the requesting creditor/creditors. Where the price of assets transferred is higher than the claims of the creditor/creditors approved by a court, the resulting difference must be paid to a deposit account no later than within ten days of the transfer of such assets. The certificate of assets transfer shall be approved by a bankruptcy administrator.

6. A written agreement for purchase and sale of immovable property shall be made during the bankruptcy process.

7. Where the portion of assets held by a natural person in joint ownership with other persons is not determined, a bankruptcy administrator shall propose that the natural person and, if needed, the members of joint ownership should request a court to determine the portion of assets held by the natural person in joint ownership with other persons. The portion of the natural person in joint ownership shall be determined by a court decision. When determining the portion of immovable property owned by the natural person, the court shall also define the procedure for the use thereof. Upon the effect of the court decision determining the portion of assets held by the natural person in joint ownership, such a portion of assets of the natural person shall be sold in accordance with the procedure defined in this Article and Article 28 of this Law.

Article 28. Specific Aspects of Sale of Individual Types of Assets

1. Where a natural person lives with his minor children/adopted children and/or persons under his guardianship/care, the only dwelling, including the pledged one, may be sold by a court decision no sooner than after the expiry of the six months' period following the approval of the plan or revised plan. During this period the natural person must find another dwelling for sale or rent. This court decision corresponds to a court authorisation referred to in Article 3.85(2) of the Civil Code.

2. Shares and other securities held by a natural person shall be sold in accordance with the procedure established by legal acts regulating circulation of securities. Unless acquired by shareholders of other companies, shares of private limited liability companies may be sold at auction by a resolution of the meeting of creditors.

3. Precious metals and precious stones shall be sold according to the procedure defined by the Code of Civil Procedure.

4. Any sale of property of a historical, scientific or artistic value shall be notified by a bankruptcy administrator to the Ministry of Culture of the Republic of Lithuania.

5. Radioactive substances, equipment containing radioactive substances and generators of ionising radiation may be sold or transferred only in accordance with the procedure established by the Law of the Republic of Lithuania on Radiation Protection and other legal acts regulating radiation protection of the population and the environment.

CHAPTER EIGHT

SATISFACTION OF CREDITORS' CLAIMS AND CLOSING OF THE PERSONAL BANKRUPTCY PROCESS

Article 29. Satisfaction of Creditors' Claims

1. In the event of the failure of a natural person to meet his obligations secured by pledge and/or mortgage, a creditor/pledgee/mortgage creditor shall have the right, under a pledge agreement or a registered mortgage and/or pledge bond and in accordance with the procedure defined by this Law, to request that the pledged assets are sold and his claims are satisfied first from the proceeds or, in the case of a failed sale of the pledged assets, that the assets are transferred under his ownership. Creditors' claims secured by pledge and/or mortgage shall be satisfied first from the proceeds of the sale of the pledged assets of the natural person or by transferring the pledged assets. Where the pledged assets are sold for a price higher than the amount of claims secured by pledge and/or mortgage, the remaining balance of the funds shall be allocated for satisfying claims of other creditors.

2. Creditors' claims, except for creditors' claims secured by pledge and/or mortgage, shall be satisfied in two stages. During the first stage, creditors' claims shall be satisfied in the order of priority established in this Article exclusive of accrued interest and penalties, while during the second stage, the remaining portion of creditors' claims, including interest and penalties, shall be satisfied in the same order of priority.

3. Employees' claims relating to labour relations, including personal income tax, state social insurance and compulsory health insurance contribution, claims for damages in relation to bodily harm or any other injury, death, an occupational disease or death caused by an accident at work, and monetary funds/child support for the maintenance of a child/adopted child shall be satisfied first.

4. All remaining creditors' claims shall be satisfied as second priority.

5. Creditors' claims arising in relation to liabilities referred to in Article 17(9) of this Law shall be satisfied after creditors' claims defined in paragraph 3 of this Article and before creditors' claims defined in paragraph 4 of this Article.

6. During each stage, creditors' claims of each successive priority shall be satisfied subject to full satisfaction of higher priority creditors' claims of a relevant stage. If funds are insufficient to fully satisfy all claims of the same priority within the same stage, such claims shall be satisfied in proportion to the amount to which each creditor is entitled.

7. Unsatisfied creditors' claims, including those secured by pledge and/or mortgage, remaining in the plan upon the closing of the personal bankruptcy process, except for the case defined in Article 30(3)(2) of this Law, shall be written off, except for the claims for damages in relation to mutilation or other bodily injury, death, and monetary funds/child support for the maintenance of a child/adopted child and claims arising from the natural person's obligation to pay penalties to the State imposed for administrative offences or criminal acts committed by the natural person.

8. Creditors' claims referred to in paragraph 3 of this Article in relation to labour relations, claims for damages in relation to mutilation or other bodily injury, death, an occupational disease or death caused by an accident at work may be satisfied from the Guarantee Fund. In this case approved creditor's claims shall be reduced by the amount paid from the Guarantee Fund, and, for this reason, claims of the Guarantee Fund for redress must be satisfied as second priority.

9. In the case of set-off between a natural person and a creditor, where such set-off is allowed in accordance with the provisions of tax laws concerning set-off of tax overpayment/difference, the creditor's claims shall be reduced by the amount set off, including accrued interest and penalties. Where the amount set off is not sufficient to satisfy all creditor's

claims, the portion of a claim excluding interest and penalties shall be satisfied first, and the remaining portion of the claims shall be satisfied in accordance with the procedure set forth in this Article based on the two-stage principle of satisfaction of claims, as defined in paragraph 2 of this Article.

Article 30. Closing of the Personal Bankruptcy Process

1. As soon as the last payment is made according to the plan, a bankruptcy administrator must, no later than within ten working days of such payment, draw up a certificate of plan implementation, which shall be signed by a natural person, bankruptcy administrator and chairperson of the meeting of creditors. The bankruptcy administrator shall, no later than within five working days of the signature, deliver the certificate to a court and a copy thereof to the natural person and chairperson of the meeting of creditors. In the event of the refusal of at least one of the persons referred to in this paragraph to sign the certificate of plan implementation, a report on non-signing of the certificate indicating the reasons for non-signing shall be drawn up and submitted to the court with the certificate of plan implementation.

2. Upon the receipt of the certificate referred to in paragraph 1 of this Article, a court shall take a decision to close or discontinue personal bankruptcy proceedings.

3. A court shall take a decision to close personal bankruptcy proceedings provided that at least one of the following conditions is met:

1) all creditors' claims approved by the court are satisfied by a natural person earlier than set in the plan, and a bankruptcy administrator submits to the court supporting documents;

2) a bankruptcy administrator submits to the court documents evidencing that a natural person is able and will be able to discharge his liabilities in the future;

3) all creditors waive their claims, and the court takes a decision to accept the waivers.

4. Upon the closing of the personal bankruptcy process, all taxes, including interest and penalties, shall accrue of the effect of a court decision to close personal bankruptcy proceedings.

5. A bankruptcy administrator must, within five working days of the effect of a court decision to close personal bankruptcy proceedings, notify thereof creditors and an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law.

6. A bankruptcy administrator shall, no later than within ten working days of the effect of a court decision to discontinue or close personal bankruptcy proceedings, transfer to a natural person documents to be kept in relation to the personal bankruptcy process and transfer funds available in a deposit account to the personal account of the natural person.

CHAPTER NINE

PUBLICATION OF DATA DURING THE PERSONAL BANKRUPTCY PROCESS

Article 31. Provision and Publication of Data about the Personal Bankruptcy Process

1. A bankruptcy administrator shall provide data about the personal bankruptcy process to an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law in accordance with the procedure established by this Law.

2. An institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law shall, according to the procedure established by legal acts, submit information contained in reports defined in Article 12(1)(5) and Article 12(2)(7) of this Law to the Lithuanian Department of Statistics and collect information about personal bankruptcy processes within its own information system. The following data shall be published on the website of an institution authorised by the Government of the Republic of Lithuania and indicated in Article 13(9) of this Law:

1) name and surname of a natural person against whom bankruptcy proceedings have been initiated;

2) name of a court hearing personal bankruptcy proceedings, the date of taking and the effect date of a court decision to open personal bankruptcy proceedings and the effect date of a court decision approving the plan;

3) office address, name and contact details of a bankruptcy administrator, in the case of a natural person, and registered address, name of a legal person, name of the manager and contact details, in the case of a legal person or a division/branch of a legal person;

4) date of discontinuing of the personal bankruptcy process (effect day of a court decision to discontinue personal bankruptcy proceedings);

5) date of closing of the personal bankruptcy process (effect day of a court decision to close personal bankruptcy proceedings).

3. Information referred to in paragraph 2 of this Article shall be made publicly available for ten years following the day of discontinuing or closing of the personal bankruptcy process.

CHAPTER TEN

FINAL PROVISIONS

Article 32. Entry into Force of the Law

This Law, except for Article 33, shall enter into force on 1 March 2013.

Article 33. Proposals to the Government of the Republic of Lithuania and Other Institutions

1. The Government of the Republic of Lithuania or an institution authorised thereby shall, by September 2012, draft laws of the Republic of Lithuania necessary for the implementation of this Law.

2. The Government of the Republic of Lithuania or an institution authorised thereby shall, by 28 February 2013, issue rules for provision and publication of data about the personal bankruptcy process and rules for sale of the assets of a natural person at auction, also draft and adopt other legal acts necessary for the implementation of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

DALIA GRYBAUSKAITĖ

Annex to
the Law of the Republic of Lithuania
on Personal Bankruptcy

LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THIS LAW

1. Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2004 *special edition* Chapter 19, Volume 1, p. 191) (as last amended by Implementing Regulation of the Council (EC) No 210/2010 of 25 February 2010) (OJ 2010 L 65, p. 1).