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Republic of Belarus: The reform of the insolvency legislation

A new Act “On Insolvency (bankruptcy)” was signed by the President of the Republic of Belarus on 13 July 2012 (hereinafter, the Act), that has been put in force on 25 January 2013.

The main developer of the Act is the Department for Insolvency of the Ministry of Economy of the Republic of Belarus.

The start of the development of the insolvency legislation in the Republic of Belarus in its modern form began in 2000. The Act is one of the steps on the path to reform the whole system of insolvency in the Republic of Belarus.

The Act is aimed to help achieving a balance between the need to address a debtor’s financial difficulty as quickly and efficiently as possible and the satisfaction of the interests of the various parties, principally creditors. This will facilitate the conditions for:

- the orderly reallocation of economic resources from businesses that are not viable to more efficient and profitable activities;
- provide incentives that will not only encourage businessmen to undertake investment, but also encourage managers of failing businesses to take steps to address financial problems and preserve employment; and
- reduce the costs of business.

The Act includes all rules of legislative acts of the Republic of Belarus on insolvency. This will provide a complex regulation of the institution within the framework of the Act. It corresponds to the current stage of economic development of the Republic of Belarus and takes into consideration the positive practice of its application since 2000.

The law consists of 20 chapters and 242 articles, which define:

- key terms which are used in the Act, such as “the debtor”, “the creditor”, “insolvency”, “the crisis manager”;
- the persons who are entitled to file for insolvency at the Commercial Court and the reasons for such an application;
- the liability of the director of a company during the commencement of insolvency proceedings in case of insufficient assets to satisfy the creditors’ claims;
- measures for the prevention of insolvency;
- measures for the pre-judicial rehabilitation;
- measures for the publication of information on insolvency proceedings:
- legal procedures for insolvency proceedings;
- the rights and duties of crisis managers;
- procedures for the conclusion of amicable settlement;
- procedures for rehabilitation during a insolvency proceeding; and
- procedures of the liquidation of enterprises.

The main goals of the Act are:

- to create modern, clear and harmonised rules for enterprises during an initiation the commencement of insolvency proceedings by the Commercial Court;
- to monitor the financial situation of the state enterprises to avoid crisis;
- to strengthen the whole burden of liability of directors, participants and government agencies for the insolvent enterprises;
- to rehabilitate insolvent enterprises;
- to improve the economy by exclusion of inefficient enterprises from the market;
- to settle creditors’ claims in a fair way and to preserve the

wholeness of the enterprises if it is possible;

- to reduce the duration of insolvency proceedings and the costs; and
- to define the state guaranties for the social protection of workers’ rights.

The most important innovation of the Act is the creation of the Single State Register of Bankruptcy Data in 2014.

The creation of the Register will allow every interested person can to find free information on the internet about any debtor being in insolvency proceedings, the list of the assets for sale, the time and place of the auctions, information about all crisis managers in the Republic of Belarus and in which insolvency proceedings they are working, the Commercial Court’s decision in each of the proceedings, and so on.

The introduction of the Single State Register of Bankruptcy Data will create the conditions for:

- the improvement of credible and actual information about all insolvency proceedings, including the list of assets; and
- the substantial reduction of the chance of any crime and offences in this field.

At the present time, the Department for Insolvency of the Ministry of Economy is developing additional regulations to improve the Insolvency Legislation, including taking into consideration the experience of other countries.



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