

# **LAW OF UKRAINE**

## **On Renewal of the debtor's Solvency or Declaring Its Bankruptcy**

The Law came into force on July 1, 1992  
by the Resolution of the Verkhovna Rada of Ukraine  
#2344-XII of May 14, 1992

With changes and amendments introduced by  
Laws of Ukraine

# 3292-XII of June 17, 1993,  
# 4036-XII of February 25, 1994,  
# 90/95-VR of March 14, 1995,  
# 177-XIV of October 14, 1998,  
# 1240-XIV of November 18, 1999,  
# 784-XIV of June 30, 1999

(in accordance with Law of Ukraine # 784-XIV of June 30, 1999

this Law is set forth in a new wording),

# 2181-III of December 21, 2000,  
# 2238-III of January 18, 2001,  
the Criminal Code of Ukraine  
# 2341-III of April 5, 2001,

Laws of Ukraine

# 2740-III of September 20, 2001,  
# 2922-III of January 10, 2002,  
# 3088-III of March 7, 2002,  
# 594-IV of March 6, 2003,  
# 597-IV of March 6, 2003,  
# 672-IV of April 3, 2003,  
# 762-IV of May 15, 2003,  
# 1096-IV of July 10, 2003,  
# 1294-IV of November 20, 2003,  
# 1499-IV of February 17, 2004,  
# 1713-IV of May 12, 2004,  
# 2354-IV of January 18, 2005,  
# 2453-IV of March 3, 2005,  
# 2454-IV of March 3, 2005,  
# 2597-IV of May 31, 2005,

# 2711-IV of June 23, 2005,  
# 2801-IV of September 6, 2005,  
# 3107-IV of November 17, 2005,  
# 3108-IV of November 17, 2005,  
# 3201-IV of December 15, 2005,  
# 3273-IV of December 22, 2005,  
# 435-V of December 12, 2006,  
# 489-V of December 19, 2006,  
# 585-V of January 11, 2007,  
# 107-VI of December 28, 2007,  
Decision of the Constitutional Court of Ukraine  
# 10-пн/2008 of May 22, 2008,  
Laws of Ukraine  
# 309-VI of June 3, 2008,  
# 675-VI of December 17, 2008

The Clause of Part Eight of Article 5 of this Law  
provides an official interpretation  
(in accordance with Decision of the Constitutional Court of Ukraine  
# 5-пн/2007 of June 20, 2007)

(In the text of the Law, terms “arbitration court”, “checked in accordance with the overseeing order” are replaced in all cases respectively by terms “commercial law court”, and “appropriately appealed” in compliance with Law of Ukraine # 3088-III of March 7, 2002)

(In the text of the Law, the term “Arbitration Procedural Code of Ukraine” is replaced in all cases by the term “Commercial Procedural Code of Ukraine” in the respective case in compliance with Law of Ukraine # 762-IV of May 15, 2003)

(In the text of the Law, the term “debtor employees’ representative” is supplemented in all cases with words “authorized person of the stockholders or members of limited or additional liability companies” in the respective case in compliance with Law of Ukraine # 3107-IV of November 7, 2005)

(In the text of the Law, the words “pension insurance” are supplemented with the wording “and other types of obligatory state social security” in compliance with Law of Ukraine # 435-V of December 12, 2006)

This Law establishes the conditions and the order for renewing solvency of a debtor subject of entrepreneurial activity or declaring its bankruptcy and applying liquidation procedure with full or partial satisfaction of its creditors.

## **SECTION I GENERAL PROVISIONS**

## **Article 1. Definition of Terms**

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

Insolvency is incapacity of a subject of entrepreneurial activity to pay monetary liabilities to its creditors after the deadline for their payment, including salaries, as well as to fulfill its commitment pertaining to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) only through renewing its solvency;

(Paragraph 2, Article 1 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

A debtor is a subject of entrepreneurial activity that is incapable of paying monetary liabilities to its creditors, including obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments), within three months after reaching the deadline for their payment;

(Paragraph 3, Article 1 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

Bankruptcy is incapacity of a debtor, acknowledged by commercial law court, to renew its solvency and satisfy the court-acknowledged creditors' claims in no other way than through the application of the liquidation procedure;

A subject of the bankruptcy (further referred to as a bankrupt) is a debtor whose incapacity to meet the monetary liabilities is established by the commercial law court. The subjects of the bankruptcy cannot separate structural subdivisions of a legal entity (branches, representative offices, divisions, etc.);

A creditor is a legal entity or individual that has documented claims in relation to monetary liabilities, in relation to payment of the salary debt to the debtor's employees, as well as bodies of state tax service and other state bodies overseeing over correctness and timeliness of insurance payments for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments). Competitive creditors are creditors having claims in relation to the debtor, which arose prior to instituting bankruptcy proceedings and whose requirements are not provided for with the debtor's pledge of receivables. Also, competitive creditors are creditors, whose claims to the debtor arose as a result of legal succession on the condition that such requirements originated prior to instituting bankruptcy proceedings. Current creditors are creditors having requirements to the debtor, which arose after instituting bankruptcy proceedings;

(Paragraph 6, Article 1 with changes introduced  
in accordance with Law of Ukraine # 3088-III of 03.07. 2002,  
in the version of Law of Ukraine # 672-IV of 04.03. 2003,  
with changes introduced in accordance with  
Law of Ukraine # 3108-IV of 11.17. 2005)

Bill of debt is the debtor's obligation to pay a certain money sum to the creditor in accordance with a civil legal agreement or on other grounds stipulated by the civil legislation of Ukraine. The bills of debt do not include arrears (fine and penalty) assessed on the date of filing an application to the commercial law court, as well as obligations, which arose as a result of doing harm to life and health of citizens, obligation to pay royalties, obligations to founders (participants) of the debtor legal entity, that arose out of such participation. The composition and the size of bills of debt, including the size of debt for delivered commodities, executed works and provided services, the amount of credits – taking into account interest that the debtor is committed to pay, are determined on the day of filing an application to the commercial law court on instituting bankruptcy proceedings, if else is not established by this Law;

(Paragraph 7, Article 1 with changes introduced  
in accordance with Laws of Ukraine of # 3088-III 03.07. 2002,  
# 672-IV of 04.03. 2003)

Indisputable claims of creditors are requirements of creditors acknowledged by the debtor, other claims of creditors confirmed by executive documents or settlement documents that serve as grounds for writing off funds from accounts of the debtor in accordance with the legislation;

Pre-trial reorganization is a system of measures on renewing solvency of a debtor, which the debtor's asset manager (a body authorized to manage the property), investor, can carry out with the purpose of preventing bankruptcy of the debtor by means of reorganizing, organizational and economic, administrative, investment, technical, financial, and legal measures in accordance with the legislation before instituting bankruptcy proceedings;

Debtor's asset management is a system of measures aimed at supervising and controlling the debtor's property management and disposal with the purpose of providing maintenance and efficient use of the debtor's property assets and conducting analysis of its financial situation;

Asset manager is an individual authorized in accordance with a procedure set forth by this Law to supervise and control the management and disposing of debtor's property for the period of the bankruptcy proceedings in accordance with this Law;

Reorganization is a system of measures carried out during bankruptcy proceedings with the purpose of preventing the declaration of the debtor's bankruptcy and its liquidation, and is directed on rehabilitation of financial and administrative state of the debtor, as well as satisfaction in full or partly of creditors' claims through crediting, restructuring of the enterprise, debts and capital and (or) change of organizational, legal and production structure of the debtor;

Restructuring of an enterprise is a realization of organizational and administrative, financial and economical, legal and technical measures aimed at reorganizing the enterprise, in particular by its division and passing of debt liabilities to the legal entity that will not be reorganized, if it is not stipulated by the reorganization plan, changing the ownership form, management, legal form, which will be instrumental in the financial rehabilitation of the enterprise, increase of volumes of output of competitive products, increase of efficiency of production and satisfaction of creditors' claims;

Reorganization manager is an individual that, in accordance with the decision of the commercial law court, organizes the realization of the debtor's reorganization;

Liquidation is stopping the activity of a subject of entrepreneurial activity held by the commercial law court to be bankrupt, with the purpose of taking steps to satisfy the court-acknowledged claims of creditors through the sale of its property;

Liquidator is an individual that, in accordance with the decision of commercial law court, organizes the realization of the liquidation procedure of the debtor declared to be bankrupt, and provides for satisfaction of the court-acknowledged claims of creditors in the order set forth by this Law;

Arbitration executive (asset manager, reorganization manager, liquidator) is an individual having a license issued in accordance with a procedure set forth by the legislation, and operates on the basis of the commercial law court ruling;

(Paragraph 17, Article 1 with changes introduced  
in accordance with Law of Ukraine # 3088-III of 03.07. 2002)

Amicable settlement is an agreement between a debtor and its creditor (or a group of creditors) on a deferral and (or) arrangement of an installment system of payments or cancellation of liability by the agreement of parties (further referred to as acquitting debts);

Official press – newspapers “Voice of Ukraine” or “Governmental courier”;

(Paragraph 19, Article 1 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

A debtor employees' representative, authorized person of the stockholders or members of limited or additional liability companies is a person authorized by a general meeting, where no less than three fourths from of the regular quantity of the debtor's employees were present, or by proper decision of the primary trade-union organization of the debtor to represent their interests during the bankruptcy proceedings with a right to a deliberative vote;

(Paragraph 20, Article 1 with changes introduced  
in accordance with Law of Ukraine # 1096-IV of 07.10. 2003)

Parties in a bankruptcy case are creditors (representative of a creditors committee), debtor (bankrupt);

Participants in bankruptcy proceedings are parties, arbitration executive (asset manager, reorganization manager, liquidator), owner of property (body authorized to manage property) of the debtor, as well as in cases stipulated by this Law other persons that participate in bankruptcy proceedings, the State Property Fund of Ukraine, state body dedicated to bankruptcy issues, a representative of self-government bodies, a representative of the debtor's employees, authorized person of the stockholders or members of limited or additional liability companies;

The interested parties in relation to a debtor are a legal entity created with the participation of the debtor, the debtor's director, members of the debtor's management bodies, chief accountant

(accountant) of the debtor, including those discharged from work a year before the beginning of the bankruptcy proceedings, as well as persons in family relationships with the noted persons and the businessman (individual) - debtor, namely: married couples and their children, parents, brothers, sisters, grandchildren. For the purposes of this Law, the interested parties in relation to the reorganization manager or creditors are recognized in accordance with the same list as the interested parties in relation to a debtor;

A moratorium on satisfaction of creditors' claims is a suspending of payment of monetary liabilities and taxes and fees (obligatory payments), whose payment deadline came before the day of introduction of the moratorium, and suspending of measures aimed at ensuring the implementation of these obligations and liabilities in relation to payment of taxes and fees (obligatory payments) applied before the decision on the introduction of moratorium;

(Paragraph 24, Article 1 in the version of  
Laws of Ukraine # 3088-III of 03.07. 2002,  
and # 672-IV of 04.03. 2003)

Settled creditors' claims are satisfied monetary claims of creditors, requirements, in relation to which a consent was attained on stopping, including replacement, the obligation or stopping of the obligation by other means, as well as other requirements that are considered settled in accordance with this Law;

Considerable agreements are agreements on disposing of the debtor's property, the book value of which exceeds one percent of book value of the debtor's assets on the day of signing the agreement;

Agreements that are a subject of interest are agreements, whose parties are the interested persons from the side of the debtor, reorganization manager or creditors;

The authorized person of the stockholders or members of limited or additional liability companies is a person authorized by the general meeting of the stockholders or members of limited or additional liability companies owning more than a half of the chartered capital of the company to represent their interests with a right of deliberative vote during the bankruptcy proceedings of this company.

(Article 1 is amended with the Paragraph in accordance with  
Law of Ukraine # 3107-IV of 11.17. 2005)

## **Article 2. Plenary Powers of the State Body Dedicated to Bankruptcy Issues**

1. The state policy on bankruptcy prevention, as well as providing conditions for the realization of procedures on renewing debtor's solvency or declaring it bankrupt in relation to state enterprises and enterprises, the part of the state property in whose charter funds makes no less than 25 percent, subjects of entrepreneurial activity of other forms of ownership in cases stipulated by this Law, is carried out by a state body dedicated to bankruptcy issues that operates on the basis of a regulation ratified in accordance with the due procedure.

2. The state body for bankruptcy issues:

Is instrumental in creation of organizational, economic, other conditions necessary for realization of procedures for renewing solvency of a debtor or declaring it bankrupt;

Offers to the commercial law court candidates of arbitration executives (asset managers, reorganization managers, liquidators) for state enterprises or enterprises, the part of the state property in whose charter funds exceeds 25 percent, in relation to which bankruptcy proceedings are instituted, and in other cases stipulated by this Law;

Organizes a system of preparation of arbitration executives (asset managers, reorganization managers, liquidators);

Carries out licensing of activity of individual subjects of entrepreneurial activity that act as arbitration executives (asset managers, reorganization managers, liquidators);

Provides for the realization of the bankruptcy proceedings in relation to an absent debtor;

Maintains a unified database on enterprises involved in bankruptcy proceedings, sets and approves the form of the arbitration executive's presentation of information necessary for maintaining the unified database on enterprises involved in bankruptcy proceedings;

Organizes the examination of the financial situation of state enterprises and enterprises, the part of the state property in whose charter funds exceeds 25 percent, during the preparation of the bankruptcy proceedings before or during its examination in the commercial law court in the case the court has ordered an expertise to be conducted and has given the proper commission;

Upon requests of court, public prosecutor or other authorized body, prepares conclusions on the presence of signs of concealed or fictitious bankruptcy, or leading to bankruptcy in relation to state enterprises or enterprises, the part of the state property in whose charter funds exceeds 25 percent;

Prepares typical documents on realization of the bankruptcy procedures and submits them for approval to the Cabinet Ministers of Ukraine in accordance with the set order;

Carries out other plenary powers stipulated by the legislation.

### **Article 3. Measures on Preventing Debtor's Bankruptcy and Extra-judicial Procedures**

1. Founders (participants) of a debtor legal entity, property owner, central bodies of executive power, and bodies of local self-government within the limits of their plenary powers are under an obligation to apply timely measures for preventing bankruptcy of the debtor enterprise.

2. Property owner of the debtor state or private enterprise, founders (participants) of the debtor legal entity, debtor's creditors, other persons may provide financial help in an amount sufficient for settling liabilities of the debtor to its creditors, including obligations in relation to payment of taxes and fees

(obligatory payments) and renewing solvency of the debtor (pre-trial reorganization) within the scope of measures on preventing the debtor's bankruptcy.

3. The granting of financial help to the debtor obligates it to assume respective liabilities towards persons that provided such help in the order established by law.

4. Pre-trial reorganization of state enterprises is carried out at the expense of state enterprises and other sources of financing. The amount of funds for conducting pre-trial reorganization of state enterprises at the expense of the State Budget of Ukraine is annually set forth by the Law on the State Budget of Ukraine.

The conditions of conducting pre-trial reorganization of state enterprises at the expense of other sources of financing have to be coordinated with the body authorized to manage the debtor's property in the order set forth by the Cabinet of Ministers of Ukraine.

Pre-trial reorganization of state enterprises is carried out in accordance with the legislation.

### **Article 3<sup>1</sup>. Arbitration Executive**

1. If else is not stipulated by this Law, an arbitration executive (asset manager, reorganization manager, liquidator) can be an individual subject of entrepreneurial activity that has higher legal or economic education, possesses special knowledge and is not an interested party in relation to the debtor and creditors.

According to this Law, the same person can function as arbitration executive (asset manager, reorganization manager, liquidator) at all stages of the bankruptcy proceedings in accordance with the requirements of this Law.

2. If else is not stipulated by this Law, an arbitration executives operate on the basis of an arbitration managing license issued by the authorized body in the order set forth by the law.

Cancellation of an arbitration executive license during the realization by an arbitration executive of his/her plenary powers is grounds for his removal from implementation of arbitration executive duties during the realization of the bankruptcy proceedings.

The commercial law court issues its decision on approval on removal of the arbitration executive from implementation of his/ her duties on these grounds during the realization of proceedings.

3. Arbitration executives cannot be appointed:

Persons considered being interested parties in accordance with this Law;

Persons that previously carried out management of this debtor legal entity, except for cases when not less than three years have passed from the day of discharging this person from the management of the noted debtor, if else is not stipulated by this Law;

Persons that are forbidden to carry out this type of entrepreneurial activity or to hold leading positions;

Persons that have a conviction for committing self-interested crimes.

Before getting appointed an arbitration executive, the person must file a application to the commercial law court, in which he/ she certifies that he/ she does not belong to any category of afore-mentioned persons.

4. The arbitration executive has a right:

To convene meetings and creditors' committee and participate in them with a right of deliberative vote;

To address to the commercial law court in cases stipulated by this Law;

To receive a remuneration in an amount and in accordance with the order stipulated by this Law;

To attract other persons and specialized organizations on contractual principles with payment of their activity at the expense of the debtor in order to carry out his/ her plenary powers, if else is not established by this Law or an agreement with the creditors;

To request and receive documents or their copies from enterprises, establishments, organizations, associations, and from citizens - upon their consent;

To receive information on pledged debtor's property from the state register of pledges;

To file an application on the pre-term termination of his/her duties to the commercial law court;

To execute other actions in accordance with law.

5. The arbitration executive is under an obligation:

To carry out measures for the defense of the debtor's property;

To analyze financial, administrative and investment activity of the debtor, its position at markets;

In the order set forth by legislation, to provide the state body for bankruptcy issues with information necessary for maintaining the Unified database on enterprises involved in bankruptcy proceedings;

To execute other plenary powers stipulated by this Law.

6. During the realization of his/her rights and duties, the arbitration executive is under an obligation to operate conscientiously and reasonably taking into account interests of the debtor and its creditors.

7. For the incident of doing harm to the debtor or creditors, the activity arbitration executive is subject to obligatory insurance. The order of obligatory insurance of the arbitration executives' activity is determined by the law.

8. Non-fulfillment or undue fulfillment of duties set upon the arbitration executive by this Law, which inflicted considerable harm to the debtor or creditors, can be grounds for cancellation of his/her license.

The commercial law court can issue a decision on non-fulfillment or undue fulfillment of duties set upon the arbitration executive, which is sent to the state body for bankruptcy issues.

9. Non-fulfillment or undue fulfillment of duties set upon the arbitration executive by this Law, in default of consequences stipulated by this article, can be foundation for removing the arbitration executive from implementing his/her duties, and the commercial law court issues a decision to this effect.

10. The payment of services, compensation of expenditures of the arbitration executive (asset manager, reorganization manager, liquidator) in connection with implementation of his/her duties is carried out in accordance with the order set forth by this Law, at the expense of funds received from the sale of the debtor's property, or at the expense of creditors' funds received as a result of production activity of the debtor.

Payment for the services of the arbitration executive (asset manager, reorganization manager, liquidator) for period from the day of the commercial law court decision on instituting bankruptcy proceedings and to the day of the first meeting of the creditors committee, at which the amount of payment for services and compensation for expenditures of the arbitration executive is set, is carried out by the creditor or the debtor, who instituted the case, in a maximal amount defined in this Article.

11. Creditors may create a fund for payment of services, compensation of expenditures and payment of additional recompense to the arbitration executive (asset manager, reorganization manager, liquidator). Forming of a fund and the order for using this money is determined by the decision of the creditors committee and is approved by the commercial law court ruling.

12. Payment for every month of services of an arbitration executive (asset manager, reorganization manager, liquidator) is paid in a size set forth by the creditors' committee and ratified by the commercial law court, if else is not stipulated by this Law, but not less than two minimum wages and no more than an average monthly salary of the hear officer of the debtor enterprise for the last twelve months of his work before opening bankruptcy proceedings.

13. Creditors have a right to set and pay to the arbitration executive an additional reward as a result of his activity, the size of which is approved by the commercial law court.

14. A report on payment of services, compensation of expenditures of the arbitration executive is approved by the decision of the creditors' committee and commercial law court ruling. The approval can be appealed in the established order.

15. Life and health the arbitration executive can be insured at the cost of creditors in the order defined by the legislation.

(The Law is amended with Article 3<sup>1</sup> in accordance with  
Law of Ukraine # 3088-III of 03.07. 2002)

## **Article 4. Judicial Procedures Used in Relation to a Debtor**

1. In accordance with this Law, the following judicial bankruptcy procedures are used in relation to a debtor:

Management of the debtor's property;

Amicable settlement;

Reorganization (renewal of solvency) of the debtor;

Liquidation of a bankrupt enterprise.

2. Reorganization of the debtor or liquidation of a bankrupt enterprise is carried out with the observance of requirements of the legislation on protection of commercial law competition.

(Part 2 of Article 4 with changes introduced  
in accordance with Law of Ukraine # 1294-IV of 11.20. 2003)

## **Article 5. Legislation Governing Bankruptcy Proceedings**

1. Bankruptcy proceedings are governed by this Law, Administrative Procedural Code of Ukraine, and other legislative Acts of Ukraine.

2. When examining a bank insolvency case, the court applies the legislation on renewing a debtor's solvency or declaring it bankrupt in the part that does not contradict the norms of the Law of Ukraine "On Banks and Banking Activity".

(Part 2, Article 5 in the version of  
Law of Ukraine # 2922-III of 01.10. 2002)

3. Bankruptcy proceedings of separate categories of subjects of entrepreneurial activity are regulated taking into account features stipulated by Section VI this Law.

4. The provisions of this Law are applied to legal entities operating in a form of a consumer society, charitable or other fund.

5. Provisions of this Law are applied to legal entities - enterprises that are subjects of state ownership rights, which are not subject to privatization, in the part of the reorganization or liquidation after excluding them from the list of such subjects in accordance with the established procedure.

6. Bankruptcy cases of mining enterprises (mining complexes, mines, mineries, pits, quarries, open excavations, washeries, mine-building enterprises) created in the process of privatization and corporatization, in whose charter funds the part of the state property makes no less than 25 percent and the sale of whose shares has begun, can be commenced not earlier than in one year from the beginning of fulfilling the privatization plan (placing of shares).

(Article 5 is amended with the new Part 6 in accordance with Law of Ukraine # 597-IV of 03.06. 2003, in this connection Parts 6 – 9 are to be counted respectively as Parts 7 – 10, Part 6, Article 5 in the version of Law of Ukraine # 1499-IV of 02.17. 2004)

7. The provisions of this Law are not to be applied to legal entities - state enterprises.

8. The provisions of this Law are not to be applied to legal entities - enterprises that are subjects of the communal ownership rights, if the decisions pertaining to them were reached exclusively at plenary meetings of the proper council of local self-government bodies.

(the application of Part 8, Article 5 gives official interpretation in accordance with Decision # 5-pp/2007 of the Constitutional Court of Ukraine of 06.20. 2007)

9. Bankruptcy proceedings with the participation of creditors – non-residents is governed by this Law, if else is not provided for by the international agreements of Ukraine, the obligatory nature of which was endorsed by the Verkhovna Rada of Ukraine.

10. In Ukraine, the proper international agreements of Ukraine determine the order of implementation of foreign state courts' decisions in bankruptcy matters, the obligatory nature of which agreements has been endorsed by the Verkhovna Rada of Ukraine.

In the case of absence of international agreements of Ukraine, the foreign state courts' decisions in bankruptcy matters are acknowledged in the territory of Ukraine mutually, if else is not stipulated by Law.

## **SECTION II BANKRUPTCY PROCEEDINGS**

### **Article 6. The Subordination, the Jurisdiction, the Right and Grounds for Bankruptcy Petition**

1. Bankruptcy cases are within the jurisdiction of commercial law courts and are examined there at debtors' locations.

2. The debtor and the creditor have the right to file an application on instituting bankruptcy proceedings to the commercial law court.

3. The commercial law court institutes a bankruptcy case, if the indisputable claims of a creditor (creditors) to the debtor amount to not less than three hundred minimum wage rates, which were not settled by the debtor within three months after the deadline set for their redemption, if else is not stipulated by this Law.

## **Article 7. Application on Instituting a Bankruptcy Case**

1. An application on instituting bankruptcy proceedings is filed by a debtor or a creditor in writing, is signed by the director of the debtor or the creditor (or by other person authorized by the legislation or charter documents), citizen subject of entrepreneurial activity (by his representative) and must contain:

The name of commercial law court, to which the application is filed;

The name (last name, name and patronymic) of the debtor, his/her/its postal address;

The name of the creditor, its postal address if the creditor is a legal entity, if the creditor is an individual, the application must contain his/her last name, name and patronymic, as well as his/her residence;

The number (code) that identifies the creditor as payer of taxes and fees (obligatory payments);

The exposition of circumstances that confirm the debtor's insolvency, indicate the sum of promissory claims of creditors, as well as the term of their settlement, the amount of forfeit (fines, penalties), essential elements of the payment document on writing off funds from bank or correspondence account of the debtor and the date of its acceptance by the debtor's banking establishment for execution;

List of documents appended to the application.

2. The application of the debtor must contain the following information in addition to the information stipulated by Part 1 of this Article:

The amount of creditors' claims on bills of debt in the size not contested by the debtor;

The amount of debt on insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments);

(Paragraph 3, Part 2, Article 7 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

The size of debt on the compensation of harm caused to life and health, on payment of salary and discharge pay to the debtor's employees, payment of royalties;

Information on availability of the debtor's property, including money amounts and account receivable;

Names of banks carrying out account-related, cash transactions and credit service of the debtor.

3. The application of the debtor must be complemented with:

The decision of the property owner (the body authorized to manage property) of the debtor on the debtor's addressing to the court, except for cases stipulated in Part 5 of this Article;

(Paragraph 2, Part 3, Article 7 with changes introduced in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Accounting balance on the last reporting date, signed by the director and the accountant of the debtor enterprise;

A list and a complete description of the pledged property, with its indicated location and value at the moment of appearance of the pledge right;

Decision of a general meeting of a joint-stock company, participants of societies with the limited or additional liability, which determines the authorized person of shareholders, participants of society with the limited or additional liability, if they made the decision on this issue;

(Part 3, Article 7 is amended with a new Paragraph 5 in accordance with Law of Ukraine # 3107-IV of 11.17. 2005, in this connection, Paragraphs 5 and 6 are to be counted respectively as Paragraphs 6 and 7)

Protocol of a general meeting of a debtor's employees, on which the representative of the debtor's employees, an authorized person of the stockholders or members of limited or additional liability companies was elected for participating in the arbitration proceedings during the realization of the bankruptcy proceedings, and if it is impossible to convoke such a meeting, then a decision of the conference (meeting) of representatives of the debtor's employees, authorized persons of the stockholders or members of limited or additional liability companies;

(Paragraph 6, Part 3, Article 7 with changes introduced in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Other documents that confirm insolvency of the debtor.

4. A debtor files an application to the commercial law court in case of available property sufficient to cover judicial charges, if else is not stipulated by this Law.

5. A debtor is under an obligation to address to the commercial law court within one month and file an application on instituting bankruptcy proceedings in the case of appearance of the following circumstances:

Settling claims of one or a few creditors will bring to impossibility for the debtor to settle monetary liabilities to the creditors in full;

The body of a debtor, authorized in accordance with charter documents or the legislation to make decisions on liquidation of the debtor, came up with a decision on filing an application to the commercial law court on instituting bankruptcy proceedings;

The debtor's incapacity to satisfy the creditors' claims in full is established during the debtor liquidation procedure not connected with the bankruptcy procedure;

In other cases stipulated by this Law.

6. In case if a bankruptcy case is instituted upon the debtor's application, the debtor is under an obligation to simultaneously file a reorganization plan in accordance with the requirements of this Law.

7. The creditor's application must contain the following information in addition to the information stipulated by Part 1 of this Article:

The amount of creditor's claims to the debtor indicating the size of forfeit (fine, penalty) due for payment;

The exposition of circumstances confirming the presence of the debtor's liability before the creditor, from which the claim arose, as well as the term of its settlement;

Proof of the fact that the amount of the confirmed claims exceeds a sum of three hundred minimum wage rates, if else is not stipulated by this Law;

Proof of validity of the creditor's claims;

Other circumstances used by the creditor to substantiate his/her/its application.

8. The creditor's application must be appended with the appropriate documents:

Decree of a court, commercial law court, which examined the claims of the creditor to the debtor;

Copy of unpaid accounting document that serves as grounds for writing off money from the accounts of the debtor in accordance with the legislation, with confirmation from the debtor's banking establishment on its acceptance of this document for implementation with the indication of the incoming date, executive documents (executive letter, executive notary letter, etc.) or other documents confirming that the debtor recognizes the creditors' claims;

Proof of insufficient value of an article of pledge for complete satisfaction of a claim secured by pledge, in case if the unique confirmed claim of the creditor filing the application is secured by the assets of the debtor.

9. The application of the creditor can be based on the unified debt of the debtor in relation to different obligations before this creditor.

Creditors have a right to unify their claims to the debtor and file one application to the court. Such application is signed by all creditors that have their claims unified.

During the bankruptcy proceedings, interests of all creditors are represented by a creditors' committee established in accordance with this Law.

10. Proof of applying measures aimed at settling the debt on obligatory payments in the order set forth by the legislation is appended to the application of the creditor – a body of the state tax service or other

state bodies carrying out control over the correctness and timeliness of settling insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments).

(Part 10, Article 7 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

11. When filing an application on instituting bankruptcy proceedings, a creditor is under an obligation to send a copy of the application and documents appended to it to the debtor.

12. If at the moment of filing an application on instituting bankruptcy proceedings the court had already received one or a few applications on instituting bankruptcy proceedings concerning one debtor, the court examines all applications, including the application of the creditor or debtor filed last.

13. A state duty is collected on applications instituting bankruptcy proceedings in accordance with the law.

### **Article 8. Acceptance or Refusal to Accept the Application on Instituting a Bankruptcy Case**

1. The judge of the commercial law court accepts an application on instituting bankruptcy proceedings filed with the observance of requirements of this Law and the Commercial Procedural Code of Ukraine.

2. The judge of the commercial law court refuses to accept an application on instituting bankruptcy proceedings, if:

The debtor is not included to the Unified State Register of Enterprises and Organizations of Ukraine or to the Register of Subjects of Entrepreneurial Activity;

Filed an application on instituting bankruptcy proceedings of the liquidated or reorganized legal entity (except for reorganization in a form of transformation);

Bankruptcy proceedings are already instituted in relation to the debtor legal entity or individual subject of entrepreneurial activity;

if claims of creditors, who filed an application on instituting bankruptcy proceedings, in total make less than three hundred minimal wage rates, if else is not stipulated by this Law;

The creditors' claims are fully provided for with a pledge.

3. In the case of refusal, a decision to this effect is sent to the applicant not later than within five days from the day of receipt of the application along with the application and documents appended to it.

4. Decision on refusing to accept an application may be appealed in accordance with the established procedure. In the case of cancellation of this decision, the application is considered being filed on the day of primary addressing to the commercial law court.

## **Article 9. Returning of the Application on Instituting a Bankruptcy Case**

1. A judge returns the application on instituting bankruptcy proceedings and documents appended to it without consideration not later than within five days from the day of receipt and issues a respective decision, if:

The application was signed by a person that does not have a right to sign it, or a person, whose position is not indicated;

The complete name of parties is not indicated in the application, nor their postal address and other information listed in Article 7 of this Law;

No proof was provided in relation to payment of the state duty in accordance with the established procedure and amount;

The applicant did not observe the deadline indicated in Paragraph 3, Article 1 of this Law;

On other grounds, as stipulated by Article 63 of the Commercial Procedural Code of Ukraine, taking into account the requirements of this Law.

2. Returning the application does not mean it cannot be filed again to the commercial law court in the general order after the removal of the fault.

3. If a few applications on instituting bankruptcy proceedings are filed and one application is returned without consideration, the judge examines the other applications.

4. Decision on returning the application on instituting bankruptcy proceedings without consideration can be appealed in accordance with the established procedure.

## **Article 10. Calling off the Application on Instituting a Bankruptcy Case**

1. An application on instituting bankruptcy proceedings can be recalled by the applicants prior to the publication in the official press of an announcement on instituting bankruptcy proceedings or after such publication, if no other applications from creditors in relation to satisfaction of their claims were received within one month.

2. A court issues a decision on recalling the application if it does not violate the rights of the debtor and its creditors.

## **Article 11. Instituting Bankruptcy Proceedings**

1. A judge, having accepted an application on instituting bankruptcy proceedings, not later than on a fifth day from the day of its receipt, issues and sends to the parties and the state body for bankruptcy issues his/her decision on instituting bankruptcy proceedings, in which he/she notifies on proceeding with the application examination, on introduction of the debtor property disposal procedure, appointing of asset manager, date of conducting of the preparatory court meeting that must take place not later than on the thirtieth day from the day of acceptance of the application on instituting bankruptcy

proceedings, if else is not stipulated by this Law, introduction of moratorium on satisfaction of creditors' claims.

If it is impossible to appoint an asset manager when accepting the application on instituting bankruptcy proceedings, an asset manager is appointed at the preparatory meeting.

2. Prior to the date of the preparatory meeting, the debtor is under an obligation to file to the commercial law court and to the applicant a testimonial on the application on instituting bankruptcy proceedings.

3. The testimonial of the debtor must contain:

Available objections of the debtor in relation to the claims of the applicant (applicants);

Total amount of debt before creditors, including salaries of the debtor's employees, as well as debt on insurance payments for obligatory state pension insurance and other types of obligatory state social security on taxes and fees (obligatory payments);

(Paragraph 3, Part 3, Article 11 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

Information on the debtor's available property, including funds in its accounts in banks or other financial and credit establishments, postal addresses of banks or other financial and credit establishments.

4. At the preparatory meeting, a judge estimates the given documents, hears explanations of parties, examines the validity of the debtor's objections.

5. With the purpose of finding all creditors and persons that expressed a desire to participate in the reorganization of the debtor, a judge issues a decision in the preparatory meeting, which obligates the applicant to file to the official press in a ten days' term at its expense an announcement on instituting bankruptcy proceedings. A newspaper announcement must contain the complete name of the debtor, its postal address, essential bank account elements, names and address of commercial law court, number of the case, information on the asset manager.

6. Part 6, Article 11 is excluded

(the validity of Item 6, Article 11 is suspended for year 2007 in accordance with Law of Ukraine # 489-V of 12.19. 2006, for year 2008 – in accordance with Law of Ukraine # 107-VI of 12.28.2007)

(the suspending of validity of Part 6, Article 11 for the year 2008 provided for by Item 14, Article 67, Section I of Law of Ukraine # 107-VI of 12.28. 2007, is deemed not concordant with the Constitution of Ukraine (is unconstitutional), in accordance with Decision # 10-rp/2008 of the Constitutional Court of Ukraine of 05.22. 2008)

(Part 6, Article 11 is excluded in accordance with Law of Ukraine # 309-VI of 06.03. 2008)

7. In order to define financial position of the debtor at the preparatory court meeting or during consideration of the bankruptcy case, a judge can choose to call for an expertise. By the court instructions, the expertise is conducted by the state body for bankruptcy issues and brings in specialists for its conducting in accordance with the established procedure.

In the case a debtor files an application on instituting bankruptcy proceedings to the court, the preparatory meeting examines the signs of his insolvency.

8. A creditor that filed the application resulting in the institution of a bankruptcy case has a right to declare additional property claims to the debtor within the limits of the deadline set in Article 14 of this Law.

9. A creditor, whose claims are provided for with a pledge, has a right to declare claims to the debtor in the part not provided for with a pledge, or for the amount of difference between the amount of the claim and the profit yield that can be received from the sale of the article of pledge, if the cost of the article of pledge is insufficient for the complete satisfaction of his claim.

10. In a decision on instituting bankruptcy proceedings, the commercial law court can oblige the debtor to file an auditor conclusion or conduct an audit. If the debtor does not have the means for this purpose, the commercial law court can appoint the conducting of an audit at the expense of the creditor only upon the consent of the latter.

Absence of an auditor conclusion does not stop the bankruptcy proceedings and is not a reason for stopping the conducting of the case.

11. The preparatory meeting issues a decision by the results of the creditor's application examination and of the debtor's testimonial, in which the following items are indicated:

The value of claims of creditors that filed an application on instituting bankruptcy proceedings;

The date when the asset manager has drawn up the register of creditors' claims, which must be drawn up and filed to the commercial law court for approval not later than within two months and ten days after the date of conducting the preparatory court meeting;

The date of the preliminary court meeting that must take place not later than within three months after the date of conducting the preparatory court meeting;

The date of convocation of the first general creditors' meeting, which must take place not later than within three months and ten days after the date of conducting the preparatory court meeting;

The date of court meeting, at which a decision will be made on reorganization of the debtor, or on declaring the debtor's bankruptcy and opening of the liquidation procedure, or suspending the conducting of the bankruptcy case, which must take place not later than within six months after the date of conducting the preparatory court meeting.

The court issues a decision on suspending bankruptcy proceedings in the case of present reasons stipulated in Article 40 of this Law.

A decision can be appealed in accordance with the established procedure.

12. Absence of the debtor's testimonial does not stop bankruptcy proceedings.

13. If the applicant does not execute the requirements of the commercial law court ruling in relation to the publication of announcement on instituting bankruptcy proceedings within a certain term, the commercial law court has a right to leave the application on instituting bankruptcy proceedings without consideration.

14. From the day of issuing an approval on instituting bankruptcy proceedings, the decision on reorganization or liquidation of the debtor legal entity is accepted in the order defined by this Law.

15. After publishing an announcement on instituting bankruptcy proceedings in official press, all creditors regardless of the term of settling the claims have a right to file applications with monetary claims to the debtor in accordance with Article 14 of this Law.

16. After the decision to leave the primary application without consideration, the commercial law court decides the issue of instituting bankruptcy proceedings based on the application of other creditor in accordance with the calendar order of its entering of the commercial law court.

## **Article 12. Providing of Creditors' Claims and the Moratorium on Satisfaction of Creditors' Claims**

1. The commercial law court has a right to take measures in relation to settling creditors' claims upon a petition from parties or participants of the bankruptcy proceedings or on its own initiative.

The commercial law court, upon an asset manager's or creditors' petition, or on its own initiative, can forbid to draw up agreements without a consent of the asset manager, as well as to oblige the debtor to pass securities, currency values, other property to third parties for storage or to apply other measures for the safekeeping of property, and issues a decision to this effect.

2. The commercial law court has a right to dismiss the director of the debtor and lay the implementation of his duties on the asset manager during the procedure of property disposal upon the petition of parties, participants of the bankruptcy proceedings, or the asset manager, which contains information on the debtor director's actions obstructing the actions of asset manager, as well as on the debtor director's actions violating rights and legal interests of the debtor and creditors. The commercial law court issues a decision on the removal of the debtor's director from the position; the debtor's director can appeal the decision in accordance with the established procedure.

3. Measures on settling creditors' claims are applicable prior to the day of introduction of the reorganization procedure and appointment of a reorganization manager, or until issuing a decision on declaring the debtor's bankruptcy, opening of the liquidation procedure and appointing a liquidator, or the commercial law court's approval of an amicable settlement, until the day of issuing a decision on denying to declare the debtor bankrupt.

The commercial law court also has a right to abolish or change measures on settling creditors' claims prior to arising of the afore-mentioned circumstances, a decision is issued to this effect, which may be appealed in accordance with the established procedure.

4. A moratorium on settling creditors' claims is introduced simultaneously with instituting bankruptcy proceedings, which is formalized by the commercial law court ruling.

During the validity term of the moratorium on settling creditors' claims:

Any action of collection is forbidden on the basis of executive documents and other documents, according to which collection is carried out in accordance with the legislation;

No forfeit (fine, penalty) is accrued, no other sanctions used for non-fulfillment or improper settlement of monetary liabilities and obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments).

(Paragraph 4, Part 4, Article 12 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

5. A moratorium on settling creditors' claims is used to the creditors' claims in relation to reimbursement of losses, which arose in connection with the waiver of the debtor to settle liabilities, in the order stipulated by Part 10, Article 17 of this Law.

6. The validity of the moratorium on settling creditors' claims does not spread on to payment of salary, alimonies, compensation of harm caused to health and life of citizens, royalties.

(Paragraph 1, Part 6, Article 12 with changes introduced in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

The validity of the moratorium does not cover settling creditors' claims carried out by the debtor in the order set in Article 14 of this Law, or reorganization manager in obedience with the reorganization plan, by the ratified commercial law court, or by a liquidator in the liquidation procedure in the order of priority set in Article 31 of this Law.

Paragraph 3, Part 6, Article 12 is excluded

(in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Paragraph 4, Part 6, Article 12 is excluded

(in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

7. The validity of the moratorium ends on the day of stopping bankruptcy proceedings.

### **Article 13. Debtor's Asset Manager**

1. With the purpose of providing for the property interests of creditors, the commercial law court ruling on instituting bankruptcy proceedings or a decision made at the preparatory meeting contains an order to introduce a procedure on disposing of the debtor's property and an appointment of an asset manager in the order set forth by this Law.

2. An asset manager is appointed by the commercial law court from the number of persons registered by the state body for bankruptcy issues as arbitration executives, information on which is submitted in accordance with the established procedure to the Supreme Commercial Law Court of Ukraine.

Creditors have a right to offer candidatures for the asset manager position, which must comply with the requirements stipulated by this Law.

3. If else is not stipulated by this Law, an individual subject of entrepreneurial activity can be appointed as an asset manager, which has higher legal or economic education or possesses special knowledge, is not an interested person of the debtor and creditors in accordance with Article 1 of this Law, and which has a license of an arbitration executive issued in the order set forth by the legislation.

4. If the asset manager's license is cancelled in accordance with the established procedure, it may serve as grounds for the commercial law court to discharge the asset manager from fulfilling his duties.

5. Persons that cannot be appointed as an asset manager:

Formerly managed the debtor legal entity, except for cases when not less than three years have passed from the day of discharging this person from the management of the noted debtor;

Have a conviction for committing self-interested crimes.

6. The court ruling on appointing an asset manager can be appealed in accordance with the established procedure.

7. An asset manager is assigned for a term of no more than six months. The court can prolong or shorten this term upon a petition of the creditors' committee or the asset manager or proprietor (body authorized to manage property) of the debtor.

8. An asset manager has a right:

To convene creditors' meeting and participate in them with a right of advisory vote;

To analyze financial position of the debtor and recommend measures on the financial rehabilitation of the debtor at the creditors' meeting;

To address to the commercial law court in cases stipulated by this Law;

To receive a remuneration in the amount and in the order stipulated by this Law;

To attract specialists on contractual principles with payment for their activity at the expense of the debtor in order to carry out his/ her plenary powers, if else is not established by this Law or a decision of the creditors' committee;

To file an application on the pre-term cancellation of his/her duties to the commercial law court;

To carry out other plenary powers stipulated by this Law.

9. An asset manager is under an obligation:

To examine copies of creditors' applications on monetary claims to the debtor together with the debtor's officials, which copies have been sent to the commercial law court in connection with instituting bankruptcy proceedings and were sent to the debtor in the order set forth by this Law;

To maintain a register of creditors' claims in accordance with the established procedure;

To notify the creditors on the results of examination of their claims by the debtor and on including of the acknowledged claims to the register of creditors' claims or on the debtor's refusal to acknowledge the claims;

To apply measures for the defense of the debtor's property;

To analyze financial, economic and investment activity of the debtor, its position at commodity markets;

To identify the signs of fictitious bankruptcy or leading to bankruptcy;

to convene creditors' meetings;

To provide the state body for bankruptcy issues with information necessary for maintaining the unified database on enterprises being the subject in bankruptcy cases;

To provide the commercial law court and the creditors' committee with a report on his/her activity, information on financial state of the debtor, suggestions in relation to the possibility of renewing the debtor's solvency;

To execute other functions stipulated by this Law.

10. During the realization of his/her plenary powers, the asset manager is under an obligation to operate conscientiously, reasonably, to take into account interests of the debtor and its creditors.

An asset manager bears responsibility for improper implementation of his/her plenary powers in accordance with the legislation of Ukraine.

Plenary powers of the arbitration executive as an asset manager are suspended on the day of the commercial law court's approval of an amicable settlement or appointing a reorganization manager or a liquidator, if else is not stipulated by this Law.

11. After appointing an asset manager and before suspending the procedure on disposing of property, the debtor's management body does not have a right, without the consent of the asset manager, to make decisions on:

(Paragraph 1, Part 11, Article 13  
in the version of Law of Ukraine # 672-IV of 04.03. 2003)

Reorganization (consolidation, joining, division, separation, transformation) and liquidation of the debtor;

Creation of legal entities, or on participating in other legal entities;

Creation of branches and representative offices;

Payment of dividends;

The debtor's emitting securities;

Exiting from the structure of participants of the debtor legal entity, acquisition for formerly produced shares of the debtor from the shareholders.

12. The decision on the debtor's participation in joint-ventures, associations, unions, holdings, production and finance groups or other associations of legal entities is made by the bodies of the debtor's management upon the consent of the asset manager.

13. A director or the debtor's management body, exceptionally in concordance with the asset manager, draws up agreements in relation to:

Transfers of real estate property into lease, mortgage, contributing of the noted property as payment to the statutory fund of an economic society or disposing of such property by other means;

Receiving and providing of loans (credits), guarantees and providing of guarantees, concession of requirement, transfer of debt, as well as transmission of the debtor's property into trust management;

Disposing of other property of the debtor, the book value of which makes over one percent of book value of the debtor's assets.

14. An asset manager does not have a right to interfere into the operational economic activity of the debtor, except for cases stipulated by this Law.

15. Appointing of an asset manager is not a reason for suspending plenary powers of the director or the debtor's management body.

16. Plenary powers of the debtor's director or the debtor's management body vested on them in accordance with the legislation or statutory documents, can be relinquished in case if these authorized entities do not provide for safekeeping of the debtor's property, create obstacles to the actions of the asset manager or other violations of the legislation. In this case, the commercial law court issues a ruling based on a petition of the creditors' committee, appointing the asset manager as a temporary director of the debtor in the order defined by the legislation and statutory documents, until the appointment of a new director of the debtor. The commercial law court issues a decision on suspending plenary powers of the director or the debtor's management bodies, which can be appealed in accordance with the established procedure.

17. From the day of the commercial law court's decision on suspending plenary powers of the debtor's director or the debtor's management bodies, the asset manager must receive the accounting and other documentation of the debtor, seal and stamps, financial and other values within three days.

#### **Article 14. Identification of Creditors and Persons Wishing to Participate in Reorganization of the Debtor**

1. Competitive creditors on claims that arose prior to the day of instituting bankruptcy proceedings, within thirty days from the day of publication of announcement on instituting bankruptcy proceedings in the official press, are obliged to file written applications to the commercial law court with claims to the debtor, as well as documents confirming them.

Creditors with claims in relation to payment of salaries, royalties, alimonies, as well with claims in relation to the compensation of harm caused to life and health of citizens, have a right to file written applications to the commercial law court with claims to the debtor, as well as documents confirming them.

Creditors send the copies of the noted applications and documents added to them to the debtor and the asset manager.

2. Claims of competitive creditors, which are declared upon termination of the term set for their presentation or not declared at all, are not examined and considered liquidated, and the commercial law court issues a decision to this effect, where it asserts the register of creditors' claims. The noted term is a deadline and is not subject for renewal.

3. The debtor along with the asset manager considers the noted claims and fully or partly acknowledges or declines them stating the reasons of rejection, then the asset manager reports this in writing to the applicants and to the commercial law court.

The decision of the debtor on its refusal to acknowledge claims can be appealed in the commercial law court that instituted the bankruptcy proceedings.

4. Part 4, Article 14 is excluded

(in accordance with  
Law of Ukraine # 672-IV of 04.03. 2003)

5. Applications of creditors on claims in relation to payment of salaries, royalties, alimonies, as well as on claims in relation to the compensation of harm caused to life and health of citizens, which are subject to the debtor's refusal, are examined in accordance with cognizance set forth by this Law.

6. The asset manager includes claims of creditors acknowledged by the debtor or the commercial law court to the register of creditors' claims.

An asset manager is under an obligation to enter separately to the register the claims of creditors provided for with a pledge on the debtor's property, in obedience with their applications, and in the absence thereof, do so in accordance with the debtor's accounting information, as well as to enter separately the data on the debtor's property to the register, which property is the subject of pledge in accordance with the state register of pledge.

An asset manager is under an obligation to enter separately to the register information on claims in relation to payment of salaries, royalties, alimonies, as well as on claims in relation to the compensation of harm caused to life and health of citizens, in accordance with applications of such creditors and with the debtor's accounting data.

7. Individuals and (or) legal entities wishing to participate in the reorganization of the debtor (further referred to as investors) can submit to the asset manager an application on participation in the reorganization of the debtor and suggestions in relation to the reorganization (plan of the reorganization).

(Article 14 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

### **Article 15. Preliminary Meeting of the Commercial Law Court**

1. The preliminary meeting of the commercial law court is conducted not later than within three months after conducting of the court preparatory meeting. Parties, as well as other participants of the bankruptcy proceedings acknowledged as such in accordance with this Law, are notified on the court preliminary meeting.

2. In the preliminary meeting, the commercial law court examines the register of creditors' claims, creditors' claims, in relation to which objections of the debtor were made and which were not included by the asset manager to the register of creditors' claims.

By the results of the consideration, the commercial law court issues a decision, where it indicates the amount of the acknowledged claims of creditors, which are to be included by the asset manager to the register of creditors' claims, and the date of holding the creditors' meeting is fixed.

The register of creditors' claims must include all claims of creditors supported by the court.

The register of creditors' claims must contain data on every creditor, the amount of its claims on monetary liabilities or obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments), the priority order of satisfaction of every claim, and, separately, the amount of forfeit (fine, penalty).

(Paragraph 4, Part 2, Article 15 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

The decision is a foundation for determining the amount of votes belonging to each creditor when making decisions at the meeting (committee) of creditors.

3. The commercial law court sends a copy of the decision to parties and other participants of the bankruptcy proceedings, as well as to the state body for bankruptcy issues.

### **Article 16. Conducting Creditors' Meetings and Formation of a Creditors' Committee**

1. The asset manager notifies the creditors in accordance with the register of creditors' claims and the authorized person of the stockholders or members of limited or additional liability companies on the place and time of holding the creditors' meeting and organizes their conducting within ten days after making the decision on the results of the preliminary meeting of the commercial law court.

The participants of the creditors' meeting with a right to vote are creditors, whose claims are included to the creditors' claims register. Representative of the debtor's employees, the authorized person of the stockholders or members of limited or additional liability companies, and the arbitration executive with a right of deliberative vote can participate in the meeting.

(Part 1, Article 16 in the version of Law of Ukraine # 3107-IV of 11.17. 2005)

2. The creditors' meeting is considered valid regardless of the number of creditors' votes participating in the meeting, if all of creditors were notified in writing on the time and place of the meeting in accordance with Part 1 of this Article. The number of creditors' votes is determined in accordance with Part 4 of this Article.

3. The creditors' meeting is convened by the arbitration executive on his initiative or the initiative of the creditors' committee or other creditors, the amount of whose claims makes no less than one-third of all claims included to the register of creditors' claims, or on the initiative of one-third of creditors' votes.

The creditors' meeting is convened at the request of the creditors' committee or single creditors by the arbitration executive (by an asset manager, reorganization manager, liquidator) within two weeks from the day of receiving a written requirement on its convocation.

The creditors hold the meeting at the location of the debtor.

4. At the creditors' meeting, creditors including bodies of the state tax service, other public bodies carrying out control over the correctness and timeliness of payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments), have a certain amount of votes proportional the sum of creditors' claims, included to the register of creditors' claims, divisible by one thousand hryvnias.

(Part 4, Article 16 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

5. The jurisdiction of the creditors' meeting covers the decision-making on:

Election of members to the creditors' committee;

Decision of quantitative composition of the creditors' committee, definition of its plenary powers, pre-term suspension of the creditors' committee plenary powers or its separate members;

Other issues stipulated by this Law.

6. For the duration of the bankruptcy proceedings, the creditors' meeting elects a creditors' committee composed of no more than seven persons.

The creditors' committee elections are conducted by the list by the free vote of most voters present at the creditors' meeting determined in accordance with Part 4 of this Article.

7. A decision on establishment and composition of the creditors' committee is sent to the commercial law court.

8. The jurisdiction of the creditors' committee covers the decision-making on:

Elections of the committee chairman;

Convocation of a creditors' meeting;

Preparation and conclusion of an amicable settlement;

Making suggestions to the commercial law court in relation to continuation or reduction of the term of procedures for disposing of the debtor's property or reorganization of the debtor;

Addressing the commercial law court with a petition on opening the procedure on reorganization, declaration of the debtor to be bankrupt and opening the liquidation procedure, revoking plenary powers of the arbitration executive (asset manager, reorganization manager, liquidator) and on assigning a new arbitration executive (asset manager, reorganization manager, liquidator), issuing consent for the arbitration executive to conclude considerable agreements for the debtor or agreements of the debtor, which are subject of a certain interest;

Other issues stipulated by this Law.

The arbitration executive, a representative of the debtor's employees, an authorized person of the stockholders or members of limited or additional liability companies and, if necessary, a representative of the body authorized to manage the debtor's property, a representative of the local self-government authorities have a right to participate in the committee's work with a right of deliberative vote.

9. Decisions of the creditors' meeting (the committee) is considered accepted by most votes of creditors, if creditors present at the meeting (committee) voted for them; the number of votes is determined in accordance with Part 4 of this Article.

### **Article 17. Issuing a Decision on Reorganization of the Debtor, Appointing a Reorganization Manager and Defining his/her Plenary Powers**

1. Upon a petition of the creditors' committee, the commercial law court has a right to issue an approval on conducting a reorganization of the debtor and on appointing a reorganization manager within a term that does not exceed the term of action of the procedure for disposing of property, as set in accordance with this Law.

(Paragraph 1, Part 1, Article 17 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

The reorganization is introduced for a term of no more than twelve months.

Based on the petition of the creditors' committee or the reorganization manager or investors, this term can be prolonged up to six months more or shortened [as necessary].

2. The creditors' committee makes a decision on the concordance of the candidature of the reorganization manager, on the choice of investor (investors), on the approval of the debtor reorganization plan.

Candidatures of the reorganization manager and investor (investors) may be proposed to the creditors' committee by any of the creditors, or by a representative of the body authorized to manage the debtor's property. A person that has been an asset manager, or an enterprise director can be proposed in the capacity of a reorganization manager if the creditors' committee and (or) investors give their consent.

3. At the same time as it issues an approval on reorganization, the commercial law court appoints a reorganization manager if he/she has an appropriate license, except for cases stipulated by this Law.

A decision on conducting a reorganization and appointing a reorganization manager goes into effect from the day of its acceptance, but it can be appealed in accordance with the established procedure.

(Paragraph 2, Part 3, Article 17 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

4. From the day of issuing a decision on reorganization:

The director of the debtor withdraws from his/her position in the order set forth by the legislation on labour, the management of the debtor passes to the reorganization manager, except for a case stipulated in Article 53 of this Law;

(Paragraph 2, Part 4, Article 17 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

Plenary powers of the debtor legal entity's management are stopped, the plenary powers of the management bodies are passed to the reorganization manager. The debtor's management bodies are under an obligation to provide passing to the reorganization manager of accounting and other documentation of the debtor, seals and stamps, financial and other values within three days from the day of decision-making on reorganization and appointing a reorganization manager;

(Paragraph 3, Part 4, Article 17 with changes introduced in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Seizure of the debtor's property and other restrictions on actions of the debtor in relation to disposing of its property can be applied only within the scope of the reorganization procedure, in case if they do not hinder fulfilling the reorganization plan and are not in conflict with interests of competitive creditors.

(Paragraph 4, Part 4, Article 17 in the version of Law of Ukraine # 672-IV of 04.03. 2003)

Paragraph 5, Part 4 is excluded

(in accordance with Law of Ukraine # 3088-III of 03.07. 2002)

5. The reorganization manager has a right:

To dispose of the debtor's property taking into account limitations stipulated by this Law;

To conclude an amicable settlement, civil, labour and other agreements on behalf of the debtor;

To file applications on declaring agreements concluded by the debtor invalid.

(Part 5, Article 17 in the version of Law of Ukraine # 3088-III of 03.07. 2002)

6. The reorganization manager is obliged:

To accept the debtor's property into his/her the economic authority and organize the taking of the stock of this property;

To open a special account for conducting of the reorganization and settling accounts with creditors;

To develop and submit the plan of the debtor reorganization to the creditors' committee for approval;

(Paragraph 4, Part 6, Article 17 in the version of Law of Ukraine # 3088-III of 03.07. 2002)

To organize the maintenance of accounting and statistical book-keeping and financial reporting;

To carry out measures pertaining to collection of account receivable to the debtor; on behalf of the debtor to bring in lawsuits on collecting liabilities from debtors of the debtor, as well as from entities that bear joint and several responsibility along with the debtor in accordance with the law or an agreement;

(Paragraph 6, Part 6, Article 17  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

To examine the creditors' claims in relation to the liabilities of the debtor, which arose after instituting bankruptcy proceedings in the procedure for disposing of debtor's property and reorganization;

To declare objections in accordance with the established procedure in relation to the creditors' claims raised to the debtor, marked in Paragraph 7 of this Part;

To report on successive realization of the reorganization plan to the creditors' committee;

To report to the state body for bankruptcy issues on his/her appointment, approving of an amicable settlement, completion of fulfilling the reorganization plan, and release from his/her duties within ten days from the day of the commercial law court issuing the respective decision;

To provide for the definition of the initial cost of property by conducting an independent estimation in the case of property alienation in the reorganization procedure;

(Part 6, Article 17 is amended with and new Paragraph 11  
in accordance with Law of Ukraine # 2801-IV of 09.06. 2005,  
in this connection, Paragraph 11 is to be counted as Paragraph 12)

To carry out other duties stipulated by this Law.

7. The approval of the reorganization manager's report or a pre-term suspension of the reorganization procedure results in revoking plenary powers of the arbitration executive as reorganization manager, on which the court issues the appropriate proper ruling.

In the case of the pre-term stopping of the reorganization procedure in connection with the conclusion of an amicable settlement or redemption of creditors' claims, the reorganization manager continues to carry out his/ her duties as director (of the management bodies) of the debtor until the appointment of the director (of the management bodies) of the debtor in accordance with the established procedure.

8. The reorganization manager can be discharged by the commercial law court from implementation of his/her duties as reorganization manager, and a decision is issued to this effect, in the following cases:

On his/her application;

On the basis of a decision of the creditors' committee in the case of non-fulfillment or improper fulfillment of his/her duties. At that, the creditors' committee must propose another candidature for the reorganization manager position, and the commercial law court issues a decision to this effect.

The commercial law court ruling on discharging the reorganization manager may be appealed in accordance with the established procedure of supervision that does not stop its implementation.

9. The proprietor of the debtor's property (body of the debtor's property management) cannot limit plenary powers of the reorganization manager in relation to disposing of the debtor's property.

The reorganization manager concludes considerable agreements and agreements, which are subject of a certain interest, only upon the creditors committee's consent, if else is not stipulated by this Law or the reorganization plan.

10. The reorganization manager has a right to decline the implementation of agreements of the debtor concluded prior to instituting bankruptcy proceedings and not executed fully or partially within three months from the day of decision-making on conducting a reorganization, if:

The implementation of agreement inflicts losses on the debtor;

(Paragraph 2, Part 10, Article 17  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

The agreement is long-term (over one year) or is expected to provide positive results for the debtor in a long-term prospect, except for cases of issuing products with a technological cycle longer than the debtor's reorganization period;

The implementation of the agreement creates conditions that hinder the renewal of solvency of the debtor.

The party of the agreement, in relation to which the reorganization manager has made the decision to waive its implementation, has a right to demand a compensation of damages that arose in connection with the waiver of implementation of the agreement, within 30 days from the day of the reorganization manager's decision-making in accordance with the established procedure within the lines of the bankruptcy proceedings.

11. An agreement of the debtor, including the one that was concluded before the commercial law court issued a decision on reorganization, can be deemed by the commercial law court invalid upon an application from the reorganization manager in accordance with the civil legislation, if:

The agreement is concluded a debtor with the interested parties and as a result of which creditors sustain or can sustain losses;

The agreement is concluded by the debtor with a separate creditor or other party within six months preceding the day of issuing a decision on reorganization, and gives advantage to one creditor over others or is related to the payment (delivery) of a tranche (share) in the debtor's property in connection with its exit from the structure of the debtor's participants.

Everything received by such agreement is returned to the parties.

Within the scope of the bankruptcy proceedings, the commercial law court carries out the consideration of applications of the reorganization manager on declaring agreements invalid and returning of everything received by such agreements.

(Part 11, Article 17 in the version of  
Laws of Ukraine # 3088-III of 03.07. 2002,  
and # 672-IV of 04.03. 2003)

12. Part 12, Article 17 is excluded

(in accordance with Law of Ukraine  
# 3088-III of 07.03.2002)

13. In the case the commercial law court declares the debtor bankrupt and opens a liquidation procedure, the reorganization manager continues to carry out his/her duties until the moment of passing the affairs to the liquidator or appointing him a liquidator in the order set forth by this Law.

14. If bankruptcy proceedings were instituted in relation to a state enterprise, its staff has the pre-emptive right to require passing to it of integral property complex of debtor enterprise into a lease on condition of accepting monetary liabilities of the debtor and upon the creditors' consent.

### **Article 18. Plan of the reorganization of the Debtor**

1. The reorganization manager is obliged to submit the plan of the debtor reorganization to the creditors' committee for approval within three months from the day of issuing the decision on reorganization of the debtor, except for cases stipulated by this Law.

The reorganization plan must contain measures on renewing solvency of the debtor, terms and conditions for participation of investors – if any, in complete or partial satisfaction of creditors' claims, in particular by the transferring of debt (part of debt) to an investor, the term and order of the debtor's or the investor's paying debts to the creditors and terms of responsibility of the investor for non-fulfillment of its contracted obligations in obedience with the reorganization plan.

The reorganization plan must stipulate the term of renewing solvency of the debtor. Solvency is considered to be renewed in default of signs of the bankruptcy, as defined by this Law.

In the case of presence of investors, the reorganization plan is developed and concorded with the participation of investors.

The reorganization plan may contain terms on:

(Part 1, Article 18 is amended with Paragraph 5  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Fulfilling the debtor's liabilities by third parties;

(Part 1, Article 18 is amended with Paragraph 6  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

Exchange of creditors' claims for the debtor's assets and (or) its corporate rights;

(Part 1, Article 18 is amended with Paragraph 7  
in accordance with Law of Ukraine of # 672-IV 04.03. 2003)

Satisfaction of creditors' claims by other method, that is not in conflict with the law.

(Part 1, Article 18 is amended with Paragraph 8  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

2. The measures on renewing solvency of the debtor, which contain the reorganization plan, may be:

Restructuring of the enterprise;

Reengineering of the business process;

Closing of unprofitable production;

Postponement and (or) arranging an installment system of payments or remission (writing off) of a part of debts, and signing of an amicable settlement to this effect;

Recovering debts receivable;

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

(Part 2, Article 18 is amended with new Paragraph 7  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003,  
in this connection Paragraphs 7 - 13  
are to be counted respectively as Paragraphs 8 - 14)

Sale of a part of the debtor's property;

Obligation of the investor on retirement of the debtor's debt (part of debt), in particular by transferring the debt (part of debt) to itself and its responsibility for non-fulfillment of the undertaken responsibilities;

Fulfilling the debtor's obligation by the proprietor of the debtor's property and its responsibility for non-fulfillment of the undertaken responsibilities;

Sale of the debtor's property as an integral property complex (for non-state enterprises);

Receipt of credit for payment of discharge pay to the debtor's employees, which are discharged in obedience with the reorganization plan, which is compensated first of all in obedience with Article 31 of this Law at the expense of funds received from sale of the debtor's property;

Discharging of the debtor's employees, who cannot be involved in the process of realization of the reorganization plan. A discharge pay in this case is paid at the expense of the investor, and in its absence – at the expense of funds received from sale of the debtor's property or an ear-marked credit;

Other ways of renewing solvency of the debtor.

3. An investor (investors) can acquire ownership rights to the debtor's property in accordance with the legislation and the reorganization plan on condition of fulfilling obligations stipulated under the reorganization plan.

4. The reorganization plan is examined by the creditors' committee, which is convened by the reorganization manager in a four-month term from the day of the commercial law court issuing a decision on reorganization, if else is not stipulated by this Law. The reorganization manager notifies in writing the members of the creditors' committee on the date and place of holding a session of the committee and two weeks prior to conducting of the creditors' committee meeting gives them the possibility to familiarize in advance with the reorganization plan.

The reorganization plan is considered approved, if such decision was supported by more than one half of votes of creditors - members of the creditors' committee at the meeting of the creditors' committee.

5. The creditors' committee may adopt one of the following decisions:

To approve the reorganization plan and submit it for approval of the commercial law court;

To decline the reorganization plan and appeal to the commercial law court with a petition on declaring the debtor's bankruptcy and opening a liquidation procedure;

To decline the reorganization plan, appeal to the commercial law court with a petition on discharging the reorganization manager from his/her duties and on appointing a new reorganization manager. The noted decision must contain the date of convocation of the regular meeting of the creditors' committee for the purpose of consideration of a new reorganization plan, which must take place not later than in one month from the day of decision-making on rejecting the reorganization plan.

The reorganization plan and the protocol of the creditors' committee meeting is approved by the creditors' committee and is submitted by the reorganization manager to the commercial law court for approval not later than within five days from the day of holding a session of the creditors' committee. The protocol of meeting of the creditors' committee may contain individual opinion of creditors that voted against the order and terms of settling debts stipulated in the reorganization plan.

The reorganization manager is obliged to co-ordinate the debtor reorganization plan in advance with the body authorized to manage state property, in relation to a debtor enterprise where the share of the state exceeds fifty percent.

The commercial law court approves the plan of the reorganization of the debtor and issues a decision to this effect, which can be appealed in accordance with the established procedure.

6. If within six months from the day of issuing a decision on reorganization the commercial law court does not receive the plan of the reorganization of the debtor, the commercial law court has a right to adopt a decision on declaring the debtor bankrupt and opening a liquidation procedure in accordance with this Law.

In case the creditors' committee approves of the reorganization plan that stipulates a longer term of the debtor reorganization than estimated initially, the commercial law court extends the reorganization term, if there are grounds to believe that extending the term of the reorganization and fulfilling the reorganization plan will bring the debtor over to renewing solvency.

7. The reorganization manager quarterly reports to the creditors' committee.

8. In case the parties breach the terms of agreements concluded in obedience with the reorganization plan, during the conducting of the reorganization procedure, the defense of the infringed right that arose in connection with the conducting of the reorganization procedure is carried out within the scope of the in bankruptcy proceedings.

### **Article 19. Sale in the Reorganization procedure of Debtor's Property as an Integral Property Complex**

1. With the purpose of renewing solvency and satisfying creditors' claims, the reorganization plan may stipulate sale of property of the debtor of non-state property as an integral property complex. Measures for securing creditors' claims in relation to the debtor's property being subject to sale in obedience with the reorganization plan are abolished by the commercial law court ruling.

2. When selling the non-state debtor's property as an integral property complex, all types of property intended for the course of business of the debtor, including apartments, buildings, equipment, tools, raw material, products, rights in an action, rights on signs (denotation), which individualize the debtor, its products (works, services) (brand name, signs for commodities and services), other rights belonging to the debtor, except for rights and duties that cannot be passed to other persons, are alienated in accordance with the established procedure.

3. When selling the non-state debtor's property as an integral property complex, which is carried out in accordance with this Article, monetary liabilities and obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) of the debtor enterprise on the date of the commercial law court accepting the application on instituting bankruptcy proceedings are not included into the set of property assets of the debtor enterprise.

(Part 3, Article 19 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

4. When selling the non-state debtor's property as an integral property complex, all labour agreements (contracts) concluded prior to the date of sale of the debtor's property as an integral property complex remain valid, at that the right and duties of the employer pass to the buyer of the debtor's property.

5. The sum received from the sale of the non-state debtor's property as an integral property complex is included into the set of property assets of the debtor.

6. The sale of the non-state debtor's property as an integral property complex is carried out at a public bidding, if else is not stipulated by the reorganization plan, in the order, stipulated by the legislation, taking into account features established in this Law.

The reorganization manager acts as the organizer of the bidding or attracts the specialized organization for these aims. The specialized organization cannot be an interested entity in relation to the creditor or the debtor.

7. Thirty days prior to the date of conducting of the auction, the reorganization manager is obliged to publish an announcement on the non-state debtor's property sale as an integral property complex at a public bidding in the official press.

8. The announcement on the non-state debtor's property sale as an integral property complex must contain:

information on the integral property complex and the order for getting acquainted with it, deadlines of presentation of requests for participating in the auction, but not more than one month from the day of publication of the announcement;

The time, the place and the form of conducting the auction;

The order of registration for participating in the auction;

The initial cost of the integral property complex determined in accordance with the legislation on the estimation of property, property rights and professional evaluation activity;

(Paragraph 5, Part 8, Article 19 in the version of  
Law of Ukraine # 2801-IV of 09.06. 2005)

The amount of the advance payment, the term and order of the advance payment;

The order of registration of the auction results.

9. The auction is not conducted in case if during the period indicated in the announcement a request has arrived on participating in the public bidding for sale of the integral property complex from only one applicant. Upon the consent of the creditors' committee, the integral property complex may be sold to such applicant without conducting a repeated auction.

10. The bidding is conducted in form of an auction, except for cases stipulated by this Law.

On the day of conducting the auction, the entity that won the auction and the reorganization manager sign a protocol, where the terms of acquisition of the integral property complex are specified, and an agreement of purchase-sale is concluded.

In the case of conducting bidding in the form of a tender, the conditions of the tender are concorded with the creditors' committee.

In the case of conducting bidding in the form of a tender on the basis of a protocol signed by the tender winner and the organizer of the auction on the day of holding the tender, the agreement of purchase-sale of the integral property complex is signed not later than fifteen days from the date conducting the tender.

11. The amount of advance prepaid by the person that won at the auction is included into the set of the debtor's property with the exception of deductions made for the expenditures of the auction organizer for its his conducting in the case of the winner's refusal to sign the protocol or the agreement of purchase-sale of the debtor's property as an integral property complex.

If a debtor satisfies the creditors' claims in full at the expense of the funds received from the sale of property as an integral property complex, the commercial law court has to order the suspension of the bankruptcy proceedings based on the reorganization manager's application.

12. If the funds received from the sale of the debtor's property as an integral property complex is not enough for satisfaction of creditors' claims in full, the reorganization manager offers to the creditors to conclude an amicable settlement.

In case if an amicable settlement is not concluded, the commercial law court acknowledges the debtor bankrupt and opens the liquidation procedure.

The reorganization manager does not have a right to carry out settling of accounts with creditors prior the commercial law court's approval of the amicable settlement or declaring the debtor's bankruptcy and opening of the liquidation procedure.

## **Article 20. Sale of a Part of Debtor's Property in the Reorganization Procedure**

1. With the purpose of renewing solvency of the debtor and satisfying creditors' claims, the reorganization plan may stipulate the sale of a part of the debtor's property at a public bidding. The reorganization manager, after taking stock of the inventory and evaluating the debtor's property, has a right to begin the sale of a part of the debtor's property at a public bidding. Measures on satisfying creditors' claims concerning a part of the debtor's property, which is a subject of sale in obedience with the reorganization plan, are cancelled by the commercial law court ruling.

2. The debtor's property, in relation to whose turnover a limitation was set, is for sale at a closed bidding. Persons that in accordance with the legislation can possess the indicated property or on the basis of other material right may participate in the closed bidding.

Sale of a part of the property of the debtor state enterprise within the reorganization procedure is conducted in accordance with legislative acts on issues of privatization taking into account features stipulated by this Law.

3. The initial cost of the debtor's property proposed at the auction is determined in accordance with the Law of Ukraine "On the estimation of property, property rights and professional evaluation activity in Ukraine", and other normative legal acts.

(Part 3, Article 20 in the version of  
Law of Ukraine # 2801-IV of 09.06. 2005)

4. The winner of the auction is under an obligation to pay the selling price of the debtor's property within a time period stipulated by the protocol or the agreement of purchase-sale, but not later than one month after the day of conducting the auction.

5. The debtor's property not sold at the first auction is proposed for the repeated auction, if else is not stipulated by the reorganization plan. Property not sold at the repeated auction can be sold by the reorganization manager upon the consent of the creditors' committee on the basis of an agreement of purchase-sale concluded without the conducting of auctions.

### **Article 21. Report of the Reorganization Manager**

1. Fifteen days prior to completion of the reorganization, as well as at presence of grounds for a pre-term stopping of the reorganization, the reorganization manager is obliged to submit to the creditors' committee a written report and to notify the members of the creditors' committee on the time and the place of holding a session of the creditors' committee.

(Part 1, Article 21 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

2. The reorganization manager's report must contain:

The balance of the debtor on the last reporting date;

The [list] of the debtor's expenditures and profits;

The information on the availability of the debtor's monetary facilities that can be directed at the satisfaction of the creditors' claims;

The information on accounts receivable of the debtor on the date of the report submittal and on the outstanding rights on the debtor's claims;

The information is on the status of the debtor's account payable on the date of the report submittal;

(Paragraph 6, Part 2, Article 21  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

3. Proof of satisfaction of claims of the competitive creditors is appended to the report of the reorganization manager in obedience with the register.

(Paragraph 1, Part 3, Article 21  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

Simultaneously with the report, the reorganization manager introduces to the creditors' committee one of the following suggestions:

Paragraph 2, Part 3, Article 21  
in the version of Law of Ukraine # 672-IV of 04.03. 2003)

On making a decision on a pre-term stopping of the reorganization procedure in connection with the debtor's renewal of solvency;

On making a decision in relation to stopping of the reorganization procedure and conclusion of an amicable settlement;

(Paragraph 4, Part 3, Article 21  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

On addressing to the commercial law court with a petition on continuation of the reorganization procedure;

On addressing to the commercial law court with a petition on declaring the debtor's bankruptcy and opening of the liquidation procedure.

4. The report of the reorganization manager must be examined by the creditors' committee not later than in ten days from the date of its receipt.

(Part 4, Article 21 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

5. Upon the results of the consideration of the reorganization manager's report, the creditors' committee makes a decision on addressing to the commercial law court with a petition in relation to:

Stopping the reorganization procedure in connection with fulfilling the reorganization plan and renewing solvency of the debtor;

Continuation of the established term for the reorganization procedure;

Stopping of the reorganization procedure, declaring the debtor's bankruptcy and opening of the liquidation procedure;

Stopping of the reorganization procedure and conclusion of an amicable settlement.

In the case of appearance of circumstances that become a foundation for stopping of the reorganization procedure, the creditors' committee can make the proper decision in default of the reorganization manager's report.

(Part 5, Article 21 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

6. If the creditors' committee have adopted none of these decisions or such decision is not filed to the commercial law court within fifteen days from the day of completion of the reorganization or upon the appearance of reasons for its pre-term stopping, the commercial law court examines the possibility of declaring the debtor bankrupt and opening of the liquidation procedure in accordance with the order stipulated by this Law.

(Part 6, Article 21 with changes introduced in accordance with  
Law of Ukraine # 672-IV of 04.03. 2003)

7. The report of the reorganization manager after its examination by the creditors' committee and the protocol of the creditors' committee meeting are sent to the commercial law court not later than in five days after the date of holding a session of the creditors' committee.

(Paragraph 1, Part 7, Article 21 with changes introduced  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

The creditors' claims register and, if available, complaints of creditors that voted against the decision accepted by the creditors' committee or did not participate in voting are appended to the report of the reorganization manager.

(Paragraph 2, Part 7, Article 21 with changes introduced  
in accordance with Law of Ukraine # 672-IV of 04.03. 2003)

8. The report of the reorganization manager and complaints of creditors are examined at the meeting of the commercial law court. The reorganization manager and the creditors that submitted complaints are notified on the time and the place of the examination.

9. If the creditors' committee has made a decision on stopping of the reorganization procedure in connection with the fulfillment of the reorganization plan and renewing solvency of the debtor, the reorganization manager's report becomes subject for approval by the commercial law court, if else is not stipulated by this Law.

In the case the commercial law court establishes the validity of the creditors' complaints, then it may deny the approval of the reorganization manager's report.

(Part 9, Article 21 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

10. A decision on approval of the reorganization manager's report or on refusal to approve the mentioned report, or on continuation of the reorganization, or on approval of an amicable settlement is issued and it can be appealed in accordance with the established procedure.

11. If settling of accounts with creditors is not conducted within the deadline stipulated in the reorganization plan, the commercial law court, in the absence of petition from the creditors' committee

on extending the deadline stipulated by the reorganization plan, and bringing of the proper changes into the reorganization plan, acknowledges the debtor bankrupt and opens the liquidation procedure.

(Part 11, Article 21 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

12. Settling of accounts with creditors, whose claims are included to the register, is conducted by the reorganization manager starting from the date indicated in the reorganization plan ratified by the commercial law court, in the order of priority set forth by Article 31 of this Law.

(Part 12, Article 21 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

13. Part 13, Article 21 is excluded

(Part 13, Article 21 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002,  
is excluded in accordance with  
Law of Ukraine # 672-IV of 04.03. 2003)

14. Part 14, Article 21 is excluded

(in accordance with Law of Ukraine  
# 3088-III of 03.07. 2002)

15. Part 15, Article 21 is excluded

(in accordance with Law of Ukraine  
# 3088-III of 03.07. 2002)

16. The copy of the commercial law court ruling and of the reorganization manager's report is sent to the state body for bankruptcy issues.

### **SECTION III LIQUIDATION PROCEDURE**

#### **Article 22. Decision on Declaring the Debtor's Bankruptcy and Opening of the Liquidation Procedure**

1. In cases stipulated by this Law, the commercial law court adopts a decision on declaring of the debtor bankrupt and opens the liquidation procedure.
2. The term of the liquidation procedure cannot exceed twelve months. The commercial law court can prolong this term to six months, if else is not stipulated by this Law.

#### **Article 23. Consequences of Declaring the Debtor's Bankruptcy**

1. From the day of the commercial law court's acceptance of the decision on declaring the debtor's bankruptcy and opening of the liquidation procedure:

The entrepreneurial activity of the bankrupt is ended with the completion of the technological cycle for making of products in the case of possibility of their sale;

The term of settling of all monetary liabilities of the bankrupt and obligations in relation to payment of insurance fees for the obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) is considered open;

(Paragraph 3, Part 1, Article 23 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

The extra charge of forfeit (fine, penalty), interest and other economic sanctions is stopped on all types of debt of the bankrupt;

Information on financial position of the bankrupt stop to be confidential or make a commercial secret;

Concluding of agreements related to alienation of the bankrupt's property or transfer of its property to third parties is permitted in the order stipulated in this section;

Seizure imposed on the property of the debtor, who is declared bankrupt or other limitations in relation to disposing of property of such debtor are abolished. The imposition of new seizure or other limitations in relation to disposing of property of the bankrupt is not allowed;

Claims to the liabilities of the debtor declared bankrupt that arose during the conducting of the bankruptcy proceedings, can be presented only within the limits of the liquidation procedure;

Settling of the liabilities of the debtor declared bankrupt is carried out in cases and in the order stipulated in this Section.

2. From the day of the commercial law court's approval of the decision on declaring the debtor's bankruptcy and on opening of the liquidation procedure, plenary powers of bodies of management of the bankrupt are stopped in relation to the management of the bankrupt and disposing of its property, if this was not done before, the director of the bankrupt is discharged from work in connection with bankruptcy of the enterprise, and a record is made in his labour book to this effect, also, the plenary powers of proprietor (proprietors) of property of the bankrupt are stopped, if this was not done before.

3. Publication of information on declaring the debtor's bankruptcy and opening of the liquidation procedure is carried out by the liquidator in the official press at the expense of the bankrupt in a five-day term from the day of issuance of the decision on declaring the debtor's bankruptcy.

4. Before the day of the commercial law court's approval of the decision on declaring the debtor's bankruptcy it is forbidden to publish or disclose by any other means the information on declaring the debtor's bankruptcy.

5. The information on declaring the debtor's bankruptcy and on opening of the liquidation procedure must contain:

The name and other essential elements of the debtor declared bankrupt;

The name of the commercial law court that holds the bankruptcy case;

The date of the commercial law court's adoption of the decision on declaring the debtor's bankruptcy and opening of the liquidation procedure;

The information on the liquidator (liquidating commission).

#### **Article 24. Functions of Commercial Law Court in Liquidation Procedure**

1. In a decision on declaring of the debtor bankrupt, the commercial law court opens the liquidation procedure, appoints a liquidator in the order stipulated for appointing a reorganization manager.

The commercial law court has a right to appoint as liquidator a person that fulfilled duties of an asset manager or (and) a debtor's reorganization manager.

2. By a petition of the liquidator concorded with the creditors' committee, the commercial law court appoints the members of the liquidating commission. In the case of the liquidation of a state enterprise or an enterprise, in the charter fund of which the state share makes more than twenty five percent, the commercial law court appoints a representative of the state body for bankruptcy issues and if necessary - of the local self-government authorities as members of the liquidating commission.

3. The liquidator (liquidating commission) executes their plenary powers to completion of the liquidation procedure in the order set forth by this Law and other normative legal acts.

4. The commercial law court in the liquidation procedure:

Examines complaints on actions of participants of the liquidation procedure;

Carries out other plenary powers stipulated by this Law.

#### **Article 25. Plenary Powers of Liquidator and Members of Liquidating Commission**

1. A liquidator carries out the following plenary powers from the day of his/her appointment:

Accepts the debtor's property into his/her responsibility, applies measures on providing of its safekeeping;

Executes functions of management and disposing of the bankrupt's property;

Takes stock of the inventory and carries out an evaluation of the bankrupt's property in compliance with the legislation;

Analyses financial situation of the bankrupt;

Executes plenary powers of the director (management body) of the bankrupt;

Heads a liquidating commission and forms the liquidation mass;

Submits claims to third parties in relation to settling of account receivables with the bankrupt;

Has a right to receive a credit for payment of discharge pay to employees discharged as a result of the liquidation of the bankrupt, which is compensated above all in obedience with Article 31 of this Law at the expense of funds received at sale of the bankrupt's property;

From the day of declaring the debtor's bankruptcy and opening of the liquidation procedure, the liquidator notifies the employees of the bankrupt on their discharging and carries out this procedure in accordance with the legislation of Ukraine on labour. The payment of discharge pay is carried out to the discharged employees of the bankrupt by the liquidator in the first turn at the expense of the funds received from the sale of the bankrupt's property or credit obtained for this purpose;

Declares an objection in accordance with the established procedure to claims to the debtor of current creditors on liabilities, which arose during the realization of the bankruptcy case, and are unpaid;

(Paragraph 11, Part 1, Article 25  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

Files an application on declaring agreements of the debtor invalid to the commercial law court on the grounds stipulated in Part 10, Article 17 of this Law;

(Paragraph 12, Part 1, Article 25  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

Applies measures aimed at a search, exposure and returning of the bankrupt's property in possession of third parties;

In accordance with the established procedure, passes for storage documents of the bankrupt, which in accordance with normative legal acts are subject to obligatory storage;

Sells the bankrupt's property in order to satisfy the claims included to the register of creditors' claims, in accordance with the established procedure stipulated by this Law;

Notifies on his/her appointment the state body for bankruptcy issues in ten days' term from the day of the commercial law court's ruling and provides the state body for bankruptcy issues with information for the maintenance of the unified database on bankrupt enterprises;

Carries out other plenary powers stipulated by this Law.

2. Within fifteen days from the day of appointing of a liquidator, the proper officials of the bankrupt are under an obligation to pass the book-keeping and other documentation of the bankrupt, seal and

stamps, financial and other values of the bankrupt to the liquidator. In the case of avoiding the implementation of the noted duties, the stated officials of the bankrupt bear responsibility in accordance with laws of Ukraine.

(Paragraph 1, Part 2, Article 25  
in the version of Law of Ukraine # 3088-III of 03.07. 2002)

From the day of appointing of a liquidator, the rights of the director (management body) of the bankrupt legal entity pass to the liquidator.

A liquidator (arbitration executive) has a right to order the making of a copy of the seal and stamps in the case of their loss.

3. Representatives of creditors, an authorized person of the stockholders or members of limited or additional liability companies, financial bodies, and in the case of necessity - representatives of the state body in matters of supervision over insurance activity, the Antimonopoly Committee of Ukraine, the state body for bankruptcy issues, if a state enterprise is declared bankrupt, and a representative of local self-government authorities are included into the complement of the liquidating commission.

(Part 3, Article 25 in the version of  
Law of Ukraine # 3107-IV of 11.17. 2005)

4. The actions of the liquidator (liquidating commission) can be appealed in the commercial law court by the owner of property (body authorized to manage the property) of the bankrupt; by a person that is responsible for the obligations of the bankrupt; by every creditor separately or by the creditors' committee; by a person that refers to his/her property rights or other reasons stipulated by law or an agreement and challenges the legitimacy of adding property assets of funds to the liquidation mass.

5. During the realization of his/her plenary powers, a liquidator has a right to declare claims to third parties, which in accordance with the legislation carry subsidiary responsibility for the liabilities of the debtor in connection with driving it to bankruptcy. The amount of the noted claims is determined deriving from a difference between the mount of creditors' claims and the liquidation mass.

Collected amounts are included to the liquidation mass and can be utilized only for satisfaction of creditors' claims in the order of priority set in Article 31 of this Law.

## **Article 26. Liquidation Mass**

1. All of types of property assets (property and property rights) of the bankrupt, belonging to it based on the right of ownership or complete economic authority on the date of opening of the liquidation procedure and discovered during the liquidation procedure, are included in the amount of the liquidation mass, except for the objects of housing stock, including dormitories, kindergartens and objects of communal infrastructure, which in the case of the bankruptcy of the enterprise are passed in the order set forth by the legislation to community property of the respective territorial communities without additional conditions and are financed in accordance with the established procedure.

(Part 1, Article 26 with changes introduced  
in accordance with Law of Ukraine # 2453-IV of 03.03.2005)

2. Things defined by family features, belonging to the bankrupt by the right of ownership or use, are included to the amount of the liquidation mass.

The bankrupt's property that is an article of pledge is included to the amount of the liquidation mass, but is used exclusively for the top priority satisfaction of claims of pledge-holders.

3. Individually defined things that belong to the bankrupt on the basis of material rights, except for the right of ownership and complete economic authority, cannot be included to the amount of the liquidation mass.

4. If the bankrupt possesses some property excluded from turnover, the liquidator is under an obligation to pass it to other persons in accordance with the established procedure.

5. The liquidator, after having found a part in composition of a joint property belonging to the bankrupt, raises issue on the separation of this part in accordance with the established procedure with the purpose of satisfaction of creditors' claims.

6. Assets included to a set of mortgage coverage of mortgage bonds, are not included to the liquidation mass of the issuer of mortgage bonds and the manager of mortgage coverage. Alienation of these assets, including enforcement, is carried out in the order stipulated by the Law of Ukraine "On Mortgage Bonds".

(Article 26 is amended with Part 6 in accordance with  
Law of Ukraine # 3273-IV of 12.22. 2005)

### **Article 27. Is Excluded**

(in accordance with Law of Ukraine  
# 3088-III of 03.07. 2002)

### **Article 28. Is Excluded**

(in accordance with Law of Ukraine  
# 3088-III 03.07. 2002)

### **Article 29. Evaluation of the Bankrupt's Property**

1. Property to be levied within the scope of the liquidation procedure is estimated by the arbitration executive in the order set forth by the legislation on the estimation of property, property rights and professional evaluation activity. In the case of sale of property at an auction, the cost of property determined by its estimation is set as the initial price.

(Part 1, Article 29 in the version of  
Law of Ukraine # 2801-IV of 06.09. 2005)

2. In order to conduct the property estimation, the arbitration executive has a right to hire subjects of evaluation activity – business subjects on an agreement basis with payment of their services at the expense of the funds received from production activity of the debtor declared bankrupt, or from selling of its property, if else is not established by the creditors’ committee.

(Part 2, Article 29 with changes introduced  
in accordance with Law of Ukraine # 2801-IV of 09.06. 2005)

### **Article 30. Selling of the Bankrupt’s Property**

1. After taking stock of the inventory and conducting an estimation of the bankrupt’s property, the liquidator begins the sale of the bankrupt’s property at a public bidding, if the creditors’ committee has not set any other order for sale of the bankrupt’s property.

2. The liquidator notifies through mass media on the order of sale of the bankrupt’s property, its composition, conditions and terms of acquisition of the property. The order of sale of the bankrupt’s property, the composition, conditions and terms of acquisition of the property are coordinated with the creditors’ committee. At that, the sale of property of bankrupt enterprises founded on the state property is carried out taking into account the requirements of the Law of Ukraine “On Privatization of State Property” and other normative legal acts on issues of privatization.

3. In the case of receipt of two or more offers in relation to acquisition of the bankrupt’s property, the liquidator holds a competition (auction). The order of holding a competition (auction) is determined in accordance of with the Law of Ukraine “On Privatization of Small State Enterprises (Small Privatization)”.

4. The bankrupt’s property, in relation to the turnover of which a limitation is set, is sold at closed biddings. Persons that can pose such property or on the basis of other material right in accordance with the legislation participate in the closed biddings.

5. The sale of securities belonging to the bankrupt based on the right of ownership is carried out in accordance with the legislation.

6. Concession of the bankrupt’s claims is carried out in the order stipulated by the civil legislation of Ukraine, upon the consent of the creditors’ committee.

The liquidator has a right to offer the bankrupt’s claims for a public bidding, if another procedure of sale (concession) of the bankrupt’s claims is not set forth by the creditors’ committee.

7. The liquidator is under an obligation to use for the conducting of the liquidation procedure only one account of the debtor in a bank establishment. Other accounts discovered during the conducting of the liquidation procedure are subject to closing by the liquidator. Funds from balance in these accounts are transferred to the basic account of the debtor.

8. Funds incoming during the course of the liquidation procedure are set off to the basic account of the debtor. payment to creditors is carried out from this basic account in the order stipulated in Article 31 of this Law.

9. The following payments are conducted from the basic account:

Current communal and operating payments;

Other expenses related to realization of the liquidation procedure.

10. The sale of the bankrupt's property is formalized with agreements of purchase-sale concluded between the liquidator and the buyer in accordance with the laws of Ukraine.

11. The liquidator, not rarer than once in a month, provides to the creditors' committee a report on his/her activity, the information on the financial situation and the debtor's property on the day of opening of the liquidation procedure and during the course of the liquidation procedure, the use of the debtor's funds, as well as other information at the creditors' committee request.

12. At the request of the commercial law court or the state body for bankruptcy issues, the liquidator is under an obligation to provide the necessary information in relation to the course of the liquidation procedure.

13. In the case of the liquidator not fulfilling or improperly fulfilling his/her duties, the commercial law court can withdraw plenary powers of the liquidator upon a petition of the creditors' committee and, upon the proposal of the creditors' committee, appoints a new liquidator.

### **Article 31. Priority of Satisfaction of Creditors' Claims**

1. Funds received from the sale of the bankrupt's property are used for satisfaction of creditors' claims in the order set in this Article:

1) In the first turn satisfied are:

a) claims provided with a pledge;

b) claims in relation to payment of debt on salaries for three months works preceding the institution of bankruptcy proceedings or terminating labour relations in the case of discharging the worker prior to the beginning of bankruptcy proceedings, monetary reimbursement for all unused days of annual vacation and additional vacation to the employees having children, the right to which arose within two years of work prior to instituting bankruptcy proceedings or terminating labour relations, other funds owed to employees in connection with the paid absence at work (payment of idle time not through worker's fault, guarantees for the time of implementation of state or public duties, guarantee and indemnification for on-duty journeys, guarantees to employees sent for the qualification enhancement training, guarantee to donors, guarantees to employees sent for a check-up to medical establishments, social payments in connection with a temporary loss of the ability to work at the expense of the enterprise funds, etc.), the right to which arose within three last months prior to instituting bankruptcy proceedings or terminating labour relations, as well as discharge pay owed to employees in connection with termination of labour relations, including compensation of credit received for these purposes;

(Sub-item "b", Item 1, Part 1, Article 31  
in the version of Law of Ukraine # 2597-IV of 05.31. 2005)

c) the expenses of the Fund for guaranteeing holdings of individuals related to its acquisition of creditor rights in relation to a bank, - in the amount of the total sum of compensation for holdings of individuals;

(Item 1, Part 1, Article 31 is amended with new sub-item “c” in accordance with Law of Ukraine # 2740-III of 09.20. 2001, in this connection, the sub-item "c" is to be counted as sub-item “d”)

c<sup>1</sup>) creditors' claims by insurance agreements;

(Item 1, Part 1, Article 31 is amended with sub-item “c<sup>1</sup>” in accordance with Law of Ukraine # 675-VI of 12.17. 2008)

d) expenses incurred in relation to realization of bankruptcy proceedings in the commercial law court and to work of the liquidating commission, including:

expenses for payment of state duty;

expenses of the applicant for the publication of announcement on instituting bankruptcy proceedings;

expenses for a publication in the official press of information on the order of sale of the bankrupt's property;

expenses for a publication in mass media on renewal in bankruptcy proceedings in connection with deeming the amicable settlement invalid;

expenses of the arbitration executive (asset manager, reorganization manager, liquidator), related to maintenance and safekeeping of property assets of the bankrupt;

expenses of creditors for conducting of audit, if an audit was conducted by a decision of the commercial law court at the expense of their facilities;

expenses on remuneration of the arbitration executive work (asset manager, reorganization manager, liquidator) in the order stipulated by Article 27 of this Law.

The listed expenses are compensated by the liquidating commission after selling a part of the liquidation mass, if else is not stipulated by this Law;

2) requirements, which arose out of liabilities of the bankrupt to the employees of the bankrupt enterprise (except for returning of payments of members of the labour association to the charter fund of the enterprise) are satisfied in the second turn, except for requirements, satisfied in the first turn, obligations, which arose as a result of harming life and health of citizens, through capitalization of the appropriate payments, including to the Fund of Social Security from industrial accidents and professional diseases of Ukraine for citizens insured in this Fund, in the order set forth by the Cabinet of Ministers of Ukraine, obligations for payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, as well as claims of citizens - principals

(depositors) of trust societies or other subjects of entrepreneurial activity that invested property (funds) of principals (depositors);

(Item 2, Part 1, Article 31 with changes introduced in accordance with Laws of Ukraine # 2597-IV of 05.31. 2005 # 3108-IV of 11.17. 2005, in the version of Law of Ukraine # 435-V of 12.12. 2006)

3) in the third turn, requirements are satisfied in relation to payment of taxes and fees (obligatory payments). Claims of the central body of executive power that carries out management of the government reserve;

(Sub-item 3, Part 1, Article 31 with changes introduced in accordance with Law of Ukraine # 1713-IV of 05.12. 2004)

4) the creditors' claims, not provided for with a mortgage, including creditors' claims arising out of obligations in the procedure of disposing of debtor's property or in the debtor reorganization procedure, are satisfied in fourth turn;

5) in fifth turn, requirements are satisfied in relation to returning payments of members of a labour association to the charter fund of the enterprise;

6) other requirements are satisfied in sixth turn.

2. The requirements of every next turn are satisfied to the extent of receipt to the account of funds from the sale of the bankrupt's property after complete satisfaction of requirements of the previous turn.

3. In the case of insufficiency of funds received from the sale of the bankrupt's property, for complete satisfaction of all requirements of one turn of requirements, the claims are satisfied proportionally to the sum of requirements belonging to every creditor of one turn.

4. In the case of refusal of the creditor from satisfaction of the requirement acknowledged in accordance with the established procedure, the liquidating commission does not take into account the sum of monetary claims of this creditor.

5. Requirements claimed after the termination of deadline set for their presentation are not examined and are considered liquidated.

6. Requirements not satisfied due to insufficiency of property are considered liquidated.

7. In case if the commercial law court has issued a ruling on the liquidation of a bankrupt legal entity, the property left after the satisfaction of creditors' claims is passed to the proprietor or an authorized body, and the property of state enterprises - to the proper body of privatization for further sale. Funds received from sale of this property are sent to the State Budget of Ukraine.

## **Article 32. Report of Liquidator**

1. After completion of all settlement of accounts with creditors, the liquidator files to the commercial law court a report and a liquidating balance, to which he/she adds:

indexes of determined liquidation mass (data from the updated inventory);

information on selling of objects of the liquidation mass with reference to the concluded agreements of purchase-sale;

copies of agreements of purchase-sale and acts of acceptance and transfer of property;

a register of creditors' claims with information on the amount of the liquidated creditors' claims;

documents confirming redemption of creditors' claims.

The commercial law court, after hearing the liquidator's report and the opinions of members of the creditors' committee or separate creditors, issues a decision on approving the liquidator report and the liquidating balance.

The liquidator reports to the state body for bankruptcy issues on completion of the liquidation procedure.

2. If by results of the liquidating balance after the satisfaction of creditors' claims no property remained, the commercial law court issues a decision on liquidation of the bankrupt legal entity. The copy of this decision is sent to the body that carried out the state registration of the bankrupt legal entity and to bodies of state statistics for the exception of the legal entity from the Unified State Register of Enterprises and Organizations of Ukraine, as well as to the proprietor (to the body authorized to manage the property), to the bodies of the state tax service at the location of the bankrupt.

3. If the bankrupt's property was enough to satisfy all of creditors' claims, the bankrupt is considered to have no debts, and it can continue its entrepreneurial activity. The commercial law court can issue a ruling on the liquidation of the legal entity devoid of debts only in case if the remaining property assets are not enough for its functioning in accordance with the legislation.

4. In case if the commercial law court came to the conclusion that a liquidator did not discover or did not sell all of present property assets of the liquidation mass necessary for complete satisfaction of creditors, it issues a decision on appointing a new liquidator. A new liquidator presides over a liquidating commission and operates in obedience with the requirements of this Law.

5. If the liquidator did not discover property assets, which are subject to inclusion into the liquidation mass, he is under an obligation to submit to the commercial law court a liquidating balance that verifies the absence of the bankrupt's property.

### **Article 33. Discharging of Debtor's Employees. Privilege and Compensation to Discharged Employees**

1. Discharging of the debtor's employees can be carried out after instituting bankruptcy proceedings and appointing of asset manager by the commercial law court in accordance with the requirements of Labour Code Ukraine taking into account features stipulated by this Law.
2. Discharge pay to the debtor's discharged employees is paid by the arbitration executive in accordance with the established procedure, taking into account features stipulated by this Law.
3. An issue on employment of discharged employees is decided in accordance with the Law of Ukraine 'On Employment of Population'. Guarantees set forth by Article 26 of the noted Law cover the debtor's discharged employees.

### **Article 34. Storage of Documents**

1. The liquidator provides for the proper registration, arrangement and storage of all, including financial and economic documents of the bankrupt during the liquidation procedure.
2. After the court's issuing of a decision on the liquidation of the bankrupt legal entity, the liquidator is under an obligation to provide for safety of the archived documents of the bankrupt and, upon a concordance with the specially authorized central body of executive power in the field of the archive business and office work or its authorized archive establishment, to determine a place of their subsequent storage.

(Article 34 in the version of  
Law of Ukraine # 594-IV of 03.06. 2003)

## **SECTION IV AMICABLE SETTLEMENT**

### **Article 35. Amicable Settlement and the Term of its Conclusion**

1. Under an amicable settlement in a bankruptcy case an agreement is understood between the debtor and the creditors in relation to a postponement and (or) arrangement of the installment system, as well as remission (writing off) of debts by the debtor's creditors, which is formalized by an agreement of parties. A debt is not subject to remission (writing off) by the terms of amicable settlement if it is a payment of insurance fees on obligatory state pension insurance and other types of obligatory state social security.

(Part 1, Article 35 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

2. An amicable settlement can be concluded at any stage of the realization of a bankruptcy case.
3. The decision on the conclusion of amicable settlement on behalf of creditors is adopted at the creditors' committee by the majority of votes of creditors - members of the committee and is considered accepted on condition that all creditors, whose requirements are provided with the mortgage of debtor's property, expressed a written consent for the conclusion of amicable settlement.

4. The decision on the conclusion of amicable settlement is made on behalf of the debtor by the director of the debtor or the arbitration executive (reorganization manager, liquidator) that execute plenary powers of management bodies and the debtor's director and sign it.

5. An amicable settlement is signed by the chairman of the creditors' committee on behalf of creditors.

### **Article 36. Terms of Conclusion of Amicable Settlement**

1. An amicable settlement can be concluded only in relation to claims provided for with a pledge, and claims of the second and next turns defined in Article 31 of this Law.

2. In the case when the terms of amicable settlement concluded in obedience with the rules of Article 35 of this Law stipulate arranging on the installment system or postponement or remission (writing off) of debts or their part, a collection body is under an obligation to agree to satisfaction of a part of claims from taxes, collections (obligatory payments) subject to the conditions of such amicable agreement for the purpose of providing for renewal of solvency of the enterprise. At that, the tax debt that arose within a term preceding three complete calendar years to the day of filing of the application on instituting bankruptcy proceedings to the commercial law court, is acknowledged unrecoverable and is written off, and tax liabilities or tax debt that arose within a term of three last calendar years before the day of filing of application on instituting bankruptcy proceedings to the commercial law court, are arranged (postponed) on the installment system or are written off subject to the conditions of the amicable settlement. The noted amicable settlement is signed by the director of the proper tax body at the location of the debtor.

(Part 2, Article 36 in the version of  
Law of Ukraine # 2181-III of 12.21. 2000)

(validity of Part 2, Article 36 is suspended for year 2007  
in accordance with Law of Ukraine # 489-V of 12.19. 2006,  
for year 2008 –  
in accordance with Law of Ukraine # 107-VI of 12.28.2007)

( the suspending of validity of Part 2, Article 36 for year 2008  
provided for by Item 14, Article 67, Section I of Law of  
Ukraine # 107-VI of 12.28. 2007, is deemed not concordant  
with the Constitution of Ukraine (is unconstitutional), in  
accordance with Decision # 10-đi/2008 of the Constitutional

3. For competitive creditors that did not participate in voting or voted against the conclusion of an amicable settlement, terms cannot be set worse than for creditors that expressed their consent with the conclusion of the amicable settlement, and whose claims are attributed to one turn.

(Part 3, Article 36 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

### **Article 37. Conclusion of Amicable Settlement and its Entry into Force**

1. An amicable settlement is concluded in writing and is subject to approval by the commercial law court; the commercial law court issues a ruling to this effect on suspending the realization of bankruptcy proceedings.

2. An amicable settlement enters into effect from the day of its approval in the commercial law court and is obligatory for the debtor (bankrupt), creditors, whose claims are provided with a mortgage, creditors of the second and the following turns.

3. A one-sided refusal from amicable settlement is not allowed.

4. An amicable settlement must contain provisions on:

amounts, order and terms of fulfilling the debtor's liabilities;

postponement or arranging on the installment system or remission (writing off) of debts or their part.

Moreover, an amicable settlement may contain conditions on:

fulfilling the debtor's liabilities by third persons;

exchange of creditors' claims for the assets of the debtor or its corporate rights;

(Paragraph 6, Part 4, Article 37 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

satisfaction of creditors' claims by other means not in conflict with the law.

### **Article 38. Consideration of Amicable Settlement in the Commercial Law Court**

1. Within five days from the day of conclusion of an amicable settlement, the arbitration executive must file to the commercial law court an application on approval of the amicable settlement.

The application on approval of an amicable settlement is appended with:

The text of amicable settlement;

The protocol of the creditors' committee meeting where the decision on the conclusion of an amicable settlement was accepted;

The list of creditors with the indication of postal address, the number (code) identifying a taxpayer, and amounts of debt;

The debtor's liabilities in relation to the compensation of all expenditures, whose compensation is stipulated in the first turn in obedience with Article 31 of this Law, except for the creditors' claims, provided for with a pledge;

Written objections of creditors, who did not participate in voting on the conclusion of an amicable settlement or voted against the conclusion of an amicable settlement, if available.

2. The commercial law court notifies the parties of amicable settlement on the date of consideration of the amicable settlement.

The commercial law court is under an obligation to hear every creditor present at the meeting, who has objections in relation to the conclusion of the amicable settlement, even if at the meeting of the creditors' committee he voted for the conclusion of the amicable settlement.

3. The commercial law court has a right to refuse to approve the amicable settlement in the following cases:

The procedure of conclusion of an amicable settlement set forth by this Law was violated;

if the terms of the amicable settlement are in conflict with the legislation.

4. The commercial law court issues a decision on refusing to approve the amicable settlement, which can be appealed in accordance with the established procedure.

In the case the commercial law court issues a decision on refusing to approve the amicable settlement, the amicable settlement is considered to be not concluded.

5. From the day of approval of the amicable settlement, the debtor proceeds to redemption of creditors' claims in obedience with the terms of the amicable settlement.

6. The commercial law court's approval of the amicable settlement is foundation for suspension of realization of bankruptcy proceedings.

7. From the day of the commercial law court's approval of the amicable settlement the plenary powers of the arbitration executive (asset manager, reorganization manager, liquidator) are revoked.

The reorganization manager or the liquidator carries out the duties of the director (management body) of the debtor until the appointment, in accordance with the established procedure, of the debtor's director (management body).

8. The commercial law court's ruling on refusing to approve an amicable settlement is not a refusal to conclude a new amicable settlement under other terms.

### **Article 39. Nullity of an Amicable Settlement or its Termination and Consequences of Non-Fulfillment of an Amicable Settlement**

1. The commercial law court can deem an amicable settlement invalid upon an application from any of competitive creditors, if there are grounds stipulated the civil legislation of Ukraine for deeming the settlement invalid.

(Part 1, Article 39 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

2. Deeming of amicable settlement invalid is foundation for proceeding in realization of bankruptcy proceedings, and the commercial law court issues a decision to this effect, which can be appealed in accordance with the established procedure.

3. The claims of competitive creditors, for which settlement of accounts were made in obedience with the terms of the amicable settlement, are considered liquidated.

(Part 3, Article 39 in the version of  
Law of Ukraine # 672-IV of 04.03. 2003)

4. A report on proceeding in realization of bankruptcy proceedings of the debtor is published in official press.

5. An amicable settlement can be terminated by a decision of the commercial law court in the following case:

The debtor's non-fulfillment of terms of the amicable settlement in relation to no less than one- third of creditors' claims.

Paragraph 3, Part 5 of Article 39 is excluded

(in accordance with  
Law of Ukraine # 672-IV of 04.03. 2003)

6. The termination of an amicable settlement by the commercial law court in relation to a separate creditor does not result in its dissolution in relation to other creditors.

7. In the case of deeming an amicable settlement invalid or its dissolution, the claims of creditors postponed and (or) installed or remitted (written off) are renewed in full in its unsettled part.

8. In the case of non-fulfillment of the amicable settlement, creditors may present their claims to the debtor in the amount stipulated by this amicable settlement. In the case of instituting bankruptcy proceedings of the same debtor, the amount of creditors' claims under the terms of the amicable settlement is determined within the scope stipulated by the abovementioned amicable settlement.

## **SECTION V**

### **SUSPENSION OF BANKRUPTCY PROCEEDINGS**

#### **Article 40. Suspension of Realization of Bankruptcy Proceedings**

1. The commercial law court stops the realization of bankruptcy proceedings, if:

1) The debtor is not included into the Unified State Register of Enterprises and Organizations of Ukraine or into the Register of Subjects of Entrepreneurial Activity;

- 2) An application is filed on declaring bankrupt of the liquidated or reorganized (except for reorganization in a form of transformation) legal entity;
  - 3) The commercial law court is examining another bankruptcy case of the same debtor;
  - 4) the report of the reorganization manager debtor is ratified in the order stipulated by this Law;
  - 5) an amicable settlement is ratified;
  - 6) the report of the liquidator is ratified in the order stipulated by Article 32 of this Law;
  - 7) the debtor has fulfilled all its obligations to creditors;
  - 8) creditors did not submit any claims to the debtor after instituting bankruptcy proceedings upon the application of the debtor.
2. A decision on suspending the realization of bankruptcy proceedings is issued, which can be appealed in accordance with the established procedure.

The realization in matters of bankruptcy can be suspended in cases stipulated in Points 1, 2 and 5 of Part 5 of this Article, at all stages of bankruptcy proceedings, that is both before and after declaring the debtor's bankruptcy; in cases stipulated in Points 3, 4, 7 and 8, - only prior to declaring the debtor's bankruptcy, and in case stipulated in Point 6, - only after declaring the debtor's bankruptcy.

## **SECTION VI**

### **PECULIARITIE of BANKRUPTCY of SEPARATE CATEGORIES of SUBJECTS of ENTREPRENEURIAL ACTIVITY**

#### **Article 41. General Provisions**

Relations connected to bankruptcy of place-creating, especially dangerous, agricultural undertakings, insurers, other categories of subjects of entrepreneurial activity are regulated by this Law taking into account peculiarities stipulated in this Section.

#### **Article 42. Features of Bankruptcy of Place-Creating Enterprises**

1. For the purposes of this Law, place-creating enterprises are considered legal entities, the amount of employees in which (taking into account the members of their families) makes no less than half the quantity of population of the administrative territorial unit where this legal entity is located.

Provisions of this Article are also applied to enterprises, the amount of employees in which exceeds five thousand persons.

2. When considering the bankruptcy case of a place-creating enterprise, the body of local self-government of the respective territorial community of the administrative territorial unit is deemed to be a participant in realization of the bankruptcy proceedings.

The commercial law court can also acknowledge central bodies of executive power as the participants of realization of the bankruptcy proceedings of a place-creating enterprise.

The debtor provides the commercial law court with proof confirming that it belongs to place-creating enterprises.

3. If the creditors' committee has not issued a decision on reorganization of the debtor, the commercial law court can issue a decision on reorganization of the debtor upon the petition of a body of local self-government or the respective central body of executive power, which are the participants of realization of the bankruptcy proceedings, on condition that they conclude with the creditors a bail agreement on the obligations of the debtor.

The bail agreement on the obligations of the debtor is concluded and signed by the authorized persons of bodies of local self-government or central bodies of executive power.

4. The body of local self-government or central body of executive power, which bailed on the obligations of the debtor, have a right to offer to the commercial law court a candidature of the reorganization manager, investor.

In the case of non-fulfillment of debtor's obligations, the guarantors carry joint responsibility for the obligations of the debtor before his creditors.

5. The commercial law court can prolong the reorganization procedure of a place-creating enterprise upon a petition of body of local self-government by up to one year.

The foundation for continuation of the reorganization procedure of a place-creating enterprise for a term stipulated in Paragraph 1 of this Part, is a plan of the financial rehabilitation of the place-creating enterprise. The plan of the financial rehabilitation of the place-creating enterprise can stipulate bringing in of investments, employment of its employees, creation of new workplaces and other ways of renewing solvency of the debtor place-creating enterprise.

6. Upon a petition of body of local self-government or central body of executive power, which are participants of the bankruptcy proceedings, on condition of conclusion of a bail agreement on the obligations of the debtor, the term of the reorganization procedure of the place-creating enterprise can be prolonged by the commercial law court up to ten years. The debtor and its guarantor in this case are under an obligation to settle accounts with creditors within three years, if else is not stipulated by this Law.

Non-fulfillment of requirements of this Part is foundation for declaring the debtor's bankruptcy and opening the liquidation procedure.

7. The Cabinet of Ministers of Ukraine or bodies of local self-government acting through their authorized bodies have a to settle accounts with all creditors right at any time in the order stipulated by this Law prior to completion of the reorganization procedure of the place-creating enterprise.

Satisfaction of creditors' claims is carried out in order of priority in obedience with Article 31 of this Law.

In the case of satisfaction of creditors' claims for monetary liabilities and obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) in the order stipulated by this Law, the realization of the bankruptcy proceedings is suspended.

(Paragraph 3, Part 7, Article 42 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

8. With the purpose of satisfaction of creditors' claims in the course of the reorganization procedure, the debtor's property as an integral property complex or a part of its property can be sold in accordance with the legislation.

In the presence of a petition from body of local self-government or central body of executive power, which are participants of realization of the bankruptcy proceedings, the sale of debtor's property as an integral property complex is carried out by holding a competition.

9. The obligatory conditions of competition are:

Keeping of no less than 70 percent of employees' workplaces, employed at the enterprise at the moment of its sale;

obligation of buyer in relation to providing of retraining or employment of employees of the enterprise in accordance with the legislation in the case of change of the enterprise activity type.

Other terms of competition may be set exceptionally upon the consent of the creditors' committee in the order stipulated in Article 19 of this Law.

10. If the petition mentioned in Paragraph 2, Part 8 of this Article was not filed or the debtor's property as an integral property complex was not sold at a competition, the debtor's property is subject to sale at an auction.

11. When selling the property of the debtor that was declared bankrupt, the liquidator must offer property as integral property complex for sale at the first auction. If the bankrupt's property was not sold as an integral property complex, the sale of property is carried out in the order stipulated Article 20 of this Law.

### **Article 43. Features of Bankruptcy of the Especially Dangerous Undertakings**

1. For the purposes of this Law, the especially dangerous undertakings are deemed the enterprises of coal, mining, atomic, chemical, metallurgical, oil-processing, other industries determined by the appropriate decisions of the Cabinet of Ministers of Ukraine, stopping of activity of which requires conducting of special measures on prevention of inflicting harm to life and health of citizens, to property, buildings, and natural environment.

2. When examining a bankruptcy case of the especially dangerous undertakings, the participants of realization of the bankruptcy proceedings are acknowledged to be the proper body of local self-government, as well as central body of executive power, to whose jurisdiction falls the sphere of the

debtor's activity, as well as, if necessary, the state body on extraordinary situations and in matters of defense of population from the consequences of the Chernobyl catastrophe, on issues of protection of natural environment and nuclear safety, on issues of geology and the use of mineral wealth.

The commercial law court can also acknowledge as participants of realization of the bankruptcy proceedings of the especially dangerous undertaking other central bodies of executive power.

The debtor provides to the commercial law court proof confirming its belonging to the especially dangerous undertaking.

3. If the creditors' committee has not accepted a decision on reorganization of the debtor, the commercial law court can issue a decision on reorganization of the debtor upon the petition of body of local self-government or proper central body of executive power, which participate in realization of the bankruptcy proceedings, on condition that they conclude with the creditors a bail agreement for the obligations of the debtor.

The bail agreement for the obligations of the debtor is concluded and signed by the authorized persons of bodies of local self-government or central bodies of executive power.

4. The body of local self-government or central body of executive power that bailed for the obligations of the debtor have a right to offer to the commercial law court a candidature of the reorganization manager, investor.

In the case the debtor does not fulfill its obligations, guarantors carry joint responsibility for the obligations of the debtor before his creditors.

5. The reorganization procedure of the especially dangerous undertaking upon a petition of body of local self-government can be prolonged by the commercial law court up to one year.

By foundation for continuation of the reorganization procedure of the especially dangerous undertaking for the term stipulated in Paragraph 1 of this Part, is a plan of the financial rehabilitation of the especially dangerous undertaking. The plan of the financial rehabilitation of the especially dangerous undertaking can stipulate bringing of investments, employment of his employees, creation of new workplaces and other ways of renewing solvency of the debtor especially dangerous undertaking. The plan of the financial rehabilitation of the especially dangerous undertaking must also contain measures on maintenance of safety of the production activity, labour and prevention of infliction of possible harm to life and health of people, to property, buildings, natural environment.

6. Upon a petition of body of local self-government or central body of executive power, which are participants in realization of the bankruptcy proceedings, on condition of concluding a bail agreement for the obligations of the debtor, the term of the reorganization procedure of the especially dangerous undertaking can be prolonged by the commercial law court up to ten years. A debtor and his guarantor in this case are under an obligation to settle accounts with creditors within three years, if else is not stipulated by this Law.

Non-fulfillment of requirements of this Part is foundation for declaring the debtor's bankruptcy and opening of the liquidation procedure.

7. The Cabinet of Ministers of Ukraine or bodies of local self-government acting through their authorized bodies have a to settle accounts with all creditors right at any time in the order stipulated by this Law prior to completion of the reorganization procedure of the especially dangerous undertaking.

Satisfaction of creditors' claims is carried out in the order of priority in obedience with Article 31 of this Law.

In the case of satisfaction of creditors' claims on the monetary claims and obligations in relation to payment of insurance fees on obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) in the order stipulated by this Law, the realization of the bankruptcy proceedings stops.

(Paragraph 3, Part 7, Article 43 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

8. With the purpose of satisfaction of creditors' claims in the course of the reorganization procedure, the debtor's property can be sold only as an integral property complex by holding a competition in the order set in Article 19 of this Law and by the legislation on issues of privatization.

9. The obligatory conditions of the competition are:

preservation of terms in relation to maintenance of safety of the production activity, labour and prevention of infliction of possible harm to life and health of citizens, to property, buildings, natural environment;

preservation of workplaces for no less than seventy percent of workers employed at the enterprise at the moment of its sale;

the obligation of the buyer in relation to providing of retraining or employment of the abovementioned employees and prevention of infliction of possible harm to life and health of citizens, to property, buildings, natural environment in the case of change of enterprise activity type.

Other terms of the competition can be set exceptionally upon the consent of the creditors' committee in the order stipulated in Article 19 of this Law.

In the case of non-fulfillment of the noted requirements of the competition that are included in the conditions of the agreement of purchase-sale of the debtor's property as an integral property complex, the agreement is terminated in accordance with the established procedure.

10. The especially dangerous undertakings are not subject for sale at an auction.

11. The creditors' claims are satisfied in the order of priority set in Article 31 of this Law, taking into account features defined in this Part, namely: in the third turn, claims are satisfied in relation to the compensation of charges on measures on prevention of infliction of possible harm to life and health of citizens, to property, buildings, natural environment in the order set forth by the Cabinet of Ministers of Ukraine.

## **Article 44. Features of Bankruptcy of Agricultural Enterprises**

1. For the purposes of this Law, agricultural enterprises are deemed legal entities, whose the basic type of activity is growing (production, production and processing) of agricultural products, profit yield of which from sales of grown (produced, produced and processed) agricultural product makes no less than fifty percent of the lump sum of their profit yield.

2. Features of bankruptcy of agricultural enterprises stipulated by this Law are also applied to fisheries, fishing collective farms, the profit yield of which from sales of grown (produced, produced and processed) agricultural product and caught water biological resources makes no less than fifty percent of the lump sum of their profit yield.

3. In the case of sale of objects of the real estate utilized for the aims of agricultural production and are in the property of agricultural enterprise declared bankrupt, at other equal conditions, the pre-emptive right on acquisition of the noted objects belongs to agricultural enterprises and farmer economies located in this locality.

(Part 3, Article 44 with changes introduced  
in accordance with Law of Ukraine # 2454-IV of 03.03. 2005)

4. In the case of liquidation of an agricultural enterprise in connection with declaring it bankrupt, the decision in relation to land plots in the property of such enterprise, or given to it for the permanent or temporal use, including the conditions of lease, is adopted in accordance with the Land Code of Ukraine.

5. When introducing the procedure of the debtor's property disposal, an analysis of financial situation of the agricultural enterprise must be carried out taking into account seasonality of agricultural production and its dependence on natural and climatic conditions, as well as the possibility of satisfaction of creditors' claims at the expense of the profits that can be received by the agricultural enterprise upon termination of the respective period of agricultural works.

6. The decision on filing a petition to the commercial law court on reorganization of agricultural enterprises is issued by the creditors' committee with the participation of a representative of body of local self-government of the proper territorial society.

The reorganization of an agricultural enterprise is introduced for the time limit until the completion of the proper period of agricultural works taking into account the time necessary for realization of the grown (produced, produced and processed) agricultural product. The noted term cannot exceed fifteen months.

7. In case if during the term of the reorganization the financial position of agricultural enterprise has worsened in connection with a natural calamity, with epizooties and other unfavorable conditions, the term of the reorganization set forth in Part 6 of this Article can be prolonged up on one year.

## **Article 45. Features of Bankruptcy of Insurers**

1. When examining a bankruptcy case of an insurer, the state body in matters of supervision after the insurance activity is acknowledged as a participant in realization of the bankruptcy proceedings.
2. An application on instituting bankruptcy proceedings of insurer can be filed to the commercial law court by the debtor, a creditor or other authorized state entity.
3. The sale of property of a debtor insurer as an integral property complex is carried out within the scope of the reorganization procedure by rules set forth in Article 19 of this Law.

During the realization of the liquidation procedure, the integral property complex of the insurer can be sold only in the case of consent of the buyer to undertake the obligations of the bankrupt insurer on insurance agreements, for which an insured accident case has not come to the day of the insurer's bankruptcy.

4. The buyer of the insurer's integral property complex can be only an insurer.
5. In the case of sale of the insurer's integral property complex within the scope of the reorganization procedure, the buyer receives all rights and duties on insurance agreements, for which an insured accident case has not come to the day of the insurer's property sale.
6. In the case of the commercial law court's decision to declare the insurer bankrupt and to open the liquidation procedure, all insurance contracts concluded by such insurer, by which an insured accident case has not come to the date of issuing of the noted decision, are terminated, except for cases stipulated in Part 3 of this Article.
7. For insurance agreements terminated on the grounds stipulated in Part 6 of this Article, the insured have a right to require returning of a part paid to the insurer as an insurance bonus proportionally to the difference between the term, for which the insurance contract was concluded, and the term of actual validity of the insurance contract, if else is not stipulated by the legislation.
8. For insurance agreements, for which an insured accident case has come before the date of the commercial law court's issuing the decision on declaring the insurer bankrupt and opening of the liquidation procedure, the insured have a right to require insurance payments.

(Part 8, Article 45 with changes introduced  
in accordance with Law of Ukraine # 675-VI of 12.17. 2008)

9. In the case of the commercial law court's decision to declare the insurer bankrupt and to open the liquidation procedure, creditors' claims on insurance contracts of the first turn are subject to settling in such order:

in the first turn – claims on contracts for personal insurance stipulated in Part 8 of this Article;

in the second turn - claims of individuals for other insurance agreements stipulated in Part 8 of this Article;

in the third turn - claims for contracts of personal insurance stipulated in Part 7 of this Article;

in the fourth turn - claims of individuals for other insurance agreements stipulated in Part 7 of this Article;

in the fifth turn - claims of legal entities for other insurance agreements stipulated in Part 8 of this Article;

in the sixth turn - claims of legal entities for other insurance agreements stipulated in Part 7 of this Article.

(Part 9, Article 45 in the version of  
Law of Ukraine # 675-VI of 12.17. 2008)

### **Article 46. Features of Bankruptcy of the professional Participants of the Stock Market**

1. When examining bankruptcy cases of an organization or a citizen - subject of entrepreneurial activity, which is a professional participant of the stock market, the state body for stock market adjustment is acknowledged as a participant of realization of the bankruptcy proceedings.

For the purposes of this Article, the term “client” means an investor at the stock market, which concluded the proper agreement with the professional participant of the stock market, which in accordance with this Law is acknowledged as debtor or bankrupt.

2. Features of bankruptcy procedure of the professional participants of the stock market not regulated by this Article, as well as measures on defense of rights and interests of clients can be stipulated by other laws.

3. The order of preventing bankruptcy and conducting of pre-trial procedures of renewing solvency of the professional participants of the stock market is established by normative legal acts of Ukraine.

4. The asset manager of the professional participant of the stock market must have a license of an arbitration executive, as well as a license issued by the state public body for stock market adjustment.

5. Limitation on realization of agreements by the professional participant of the stock market, in relation to which bankruptcy proceedings have begun, is not spread onto agreements on securities of his clients, which are carried out upon the commissions of clients and are confirmed by them after instituting bankruptcy proceedings.

6. An asset manager is under an obligation in a ten days' term from the day of his appointment to send clients that passed into management their own securities to the debtor professional participant of the stock market a report on instituting bankruptcy proceedings and appointing of an asset manager. The essential elements of the asset manager's license, the kind and essential elements of the license issued to the asset manager by the state body for stock market adjustment, are indicated in the report, as well as suggestions as to the orders concerning actions that must be done with securities belonging to the investor at the stock market, which are in the management of the debtor professional participant of the stock market.

7. Securities and other property of clients, which are passed into management of the professional participant of the stock market and are not in his property, are not included in the amount of the liquidation mass.

8. From the day of the commercial law court's introduction of the debtor reorganization procedure or declaring of the professional participant of the stock market bankrupt and opening of the liquidation procedure, the clients' securities are subject to returning to clients, if else is not stipulated in an agreement of the reorganization manager or the liquidator with the client.

9. If requirements of clients in relation to returning them their own securities on demand of one kind (one issuer, one category, one type, one series) exceed the amount of the indicated securities at the disposal of the professional participant of the stock market, the returning of the noted securities to clients is carried out proportionally to the clients' claims.

The clients' claims in their un-settled part are acknowledged as bills of debt and are satisfied in the order stipulated in Article 31 of this Law.

10. When conducting the reorganization of the professional participant of the stock market, the reorganization manager has a right to pass securities, passed previously to such professional participant of the stock market by clients, to another subject of entrepreneurial activity that has an appropriate license of the professional participant of the stock market.

#### **Article 46<sup>1</sup>. Features of Bankruptcy of an Issuer or Manager of Mortgage Certificates, Manager of Construction Finance Fund or Real Estate Fund Manager**

1. In the case of instituting bankruptcy proceedings in relation to an issuer or manager of mortgage certificates, mortgage assets are not included in the amount of the liquidation mass of such issuer or manager. Disposing of these assets is carried out in accordance with the Law of Ukraine "On Mortgage Crediting, Operations with Consolidated Mortgage Debt and Mortgage Certificates".

2. In the case of instituting bankruptcy proceedings in relation to the manager of construction finance fund or real estate fund manager, the funds and property in the management of the manager are not included to the amount of the liquidation mass of such manager. Disposing of these funds and property is carried out in accordance with the Law of Ukraine "On Financial and Credit Mechanisms and Property Management when Building of Habitation and Operations with the Real Estate".

(The Law is amended with Article 46<sup>1</sup> in accordance with  
Law of Ukraine # 3201-IV of 12.15. 2005)

#### **Article 47. General Provisions on Bankruptcy of a Citizen Subject of Entrepreneurial Activity**

1. Rules stipulated in this Article are applied to the relations connected with declaring of citizen subject of entrepreneurial activity (further referred to as citizen-businessman) to be bankrupt.

2. An application on instituting bankruptcy proceedings for a citizen-businessman can be filed to the commercial law court by a debtor citizen-businessman, or his creditors.

Creditors of the citizen-businessman can file an application on instituting bankruptcy proceedings, except for creditors, whose claims are related to the obligations that arose as a result of inflicting harm to life and health of citizens, and creditors having claims in relation to the collection of alimonies, as well as other claims of personal nature.

Creditors, whose claims are related to the obligations that arose as a result of inflicting harm to life and health of citizens, and creditors having claims in relation to the collection of alimonies, as well as other claims of personal nature have a right to claim their requirements in the process of the bankruptcy proceedings.

3. The application of the citizen-businessman on instituting bankruptcy proceedings can contain an appended plan for covering his debts, the copies of which are sent to creditors and other participants of the bankruptcy proceedings.

In default of creditors' objections, the commercial law court can approve the plan for covering debts, which is a foundation for suspending bankruptcy proceedings for a term not larger than three months.

4. The plan for covering debts must include:

The term of its implementation;

The monthly amount remaining to the debtor citizen-businessman and his family members for consumption;

The monthly amount sent for redemption of creditors' claims.

5. The commercial law court has a right, upon a justified petition of participants of the bankruptcy proceedings of the citizen-businessman, to change the plan for covering debts, including the increase or decrease of the term of its implementation, the monthly amount remaining to the debtor and his family members for consumption.

6. If as a result of implementation of the plan for covering debts, claims of creditors are satisfied in full, the bankruptcy proceedings are terminated.

7. In the case of declaring the citizen-businessman bankrupt, the amount of the liquidation mass does not include the citizen-businessman's property, onto which levying cannot be applied in accordance with the civil judicial legislation of Ukraine.

8. The commercial law court has a right upon a justified petition of the citizen-businessman and other participants of the bankruptcy proceedings to exclude property of the citizen-businessman from the amount of the liquidation mass, which can be levied in obedience with the civil judicial legislation of Ukraine, if the property is non-liquid or if profit from its sale will not substantially influence the satisfaction of creditors' claims. The total worth of the citizen-businessman's property eliminated from the amount of the liquidation mass in accordance with provisions of this Part, cannot exceed two thousand hryvnyas.

The list of the citizen-businessman's property eliminated from the amount of the liquidation mass in accordance with provisions of this Part is approved by the commercial law court that issues a decision to this effect, which can be appealed in accordance with the established procedure.

9. The agreements of the citizen-businessman related to alienation or transmission by other means of property of the citizen-businessman to interested persons, within one year before instituting bankruptcy proceedings, can be deemed by the commercial law court invalid upon an application of creditors.

#### **Article 48. Commercial Law Court Consideration of a Citizen-Businessman Bankruptcy Case**

1. Simultaneously with acceptance of an application on instituting bankruptcy proceedings of a citizen-businessman, the commercial law court imposes an arrest on property of the citizen-businessman, except for property on which there can be no levying in obedience with the civil judicial legislation of Ukraine.

Upon a petition of the citizen-businessman, the commercial law court can free property (property part) from under seizure in the case of conclusion of a bail agreement or other providing for fulfilling the citizen-businessman's liabilities by third parties.

2. Upon an application of the citizen-businessman, the commercial law court can set aside the consideration of the bankruptcy case for no more than two months in order for the citizen-businessman to settle accounts with creditors or conclude an amicable settlement.

3. In the presence of information on discovering inheritance in behalf of the citizen-businessman, the commercial law court has a right to stop the realization of the bankruptcy proceedings in order to develop a decision in relation to the inheritance under the procedure set forth by the law.

4. If within the period set forth by Part 2 of this Article, the citizen-businessman has not submitted proof of satisfaction of creditors' claims and within the noted term he/she has not concluded an amicable settlement, the commercial law court declares the citizen-businessman bankrupt and opens a liquidation procedure.

5. From the day of the commercial law court's adoption of the decision on declaring the citizen-businessman bankrupt and opening of the liquidation procedure:

the terms of fulfilling the citizen-businessman's liabilities are considered to be in effect;

the extra charge of forfeit (fine, penalty), interest and other financial (economic) sanctions is stopped on all obligations of the citizen-businessman;

the collection from the citizen-businessman is stopped on all executive documents, except for executive documents on collection of alimonies, as well as on claims for compensation of harm caused to life and health of citizens.

6. The commercial law court sends a copy of the decision on declaring the citizen-businessman bankrupt and on opening of the liquidation procedure to all known creditors indicating the term for producing creditors' claims that cannot exceed two months.

The sending of the noted copy of the commercial law court ruling to the creditors is carried out at the expense of the citizen-businessman declared bankrupt.

7. The commercial law court ruling on declaring of the citizen-businessman bankrupt and an executive letter on the levying property of the citizen-businessman are sent to the bailiff for realization of sale of the bankrupt's property. All property of the citizen-businessman is subject to sale, except for property not included to the amount of the liquidation mass by this Law.

In the case of necessity for permanent management of immovable property or valuable personal assets of the bankrupt citizen-businessman, the commercial law court appoints for this purpose a liquidator and determines the size of his remuneration. In this case, the sale of property of the citizen-businessman is carried out by the liquidator.

Funds received from selling the property of the bankrupt citizen-businessman, as well as available funds in cash are placed to the savings account of a notary office and are utilized in accordance with the decision of the commercial law court that declared the citizen-businessman bankrupt.

#### **Article 49. Peculiarities of Satisfaction of Creditors' Claims of a Bankrupt Citizen-Businessman**

1. Prior to satisfaction of creditors' claims, from funds placed to the savings account of a notary office, expenditures related to the realization of the bankruptcy proceedings of a citizen-businessman and to the implementation of the commercial law court ruling on declaring the citizen-businessman bankrupt, are compensated.

The creditors' claims are satisfied in such order:

the requirements of citizens, before which the citizen-businessman bears responsibility for inflicting harm to life and health of citizens, are satisfied in the first turn, through capitalization of the appropriate periodic payments, as well as claims in relation to alimonies;

in the second turn calculations are conducted in relation to payment of discharge pay and payment of labour to persons working by a labour agreement (by contract), and in relation to payment of royalties, as well as claims that arose out of obligations on payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security are satisfied;

(Paragraph 4, Part 1, Article 49 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

in the third turn the creditors' claims are satisfied on liabilities provided for with the citizen-businessman's property mortgage;

in a fourth turn claims are satisfied in relation to payment of taxes and fees (obligatory payments);

in a fifth turn settling of accounts is conducted with other creditors.

The requirements of each following turn are satisfied after the satisfaction of claims of the previous turn.

At the insufficiency of funds in the savings account of the notary office for complete satisfaction of all claims of one turn, funds are distributed between the creditors of the proper turn proportionally to the sums of their claims.

2. After completion of settling of accounts with creditors, the bankrupt citizen-businessman is relieved from subsequent settling of creditors' claims, which were submitted after declaring of citizen-businessman a bankrupt, except for requirements stipulated in Paragraph 2 of this Part.

Creditors' claims in relation to the compensation of harm caused to life and health of citizens, claims in relation to alimonies, as well as other requirements of the personal nature not satisfied during the implementation of the commercial law court ruling on declaring of citizen-businessman a bankrupt, or which were liquidated partially or not submitted after declaring of citizen-businessman a bankrupt, can be declared upon termination of the bankruptcy proceedings of the citizen-businessman accordingly in full or in their un-settled part in accordance with the order set forth by the civil legislation of Ukraine.

3. For the duration of five years after declaring the citizen-businessman bankrupt, no bankruptcy proceedings upon his application can be instituted.

In the case of declaring the citizen-businessman bankrupt upon an application of a creditor, during five years after completion of settling of accounts with creditors such citizen-businessman is not relieved from the subsequent satisfaction of creditors' claims.

The creditors' claims that are not satisfied can be submitted in accordance with the order set forth by the civil legislation of Ukraine.

### **Article 50. Features of Farmer Bankruptcy**

(Name of Article 50 with changes introduced in accordance with  
Law of Ukraine # 2454-IV of 03.03.2005)

1. Grounds for declaring of farmer a bankrupt is its insolvency to satisfy upon termination of the proper period of agricultural works of creditors' claims on monetary liabilities within six months and (or) to fulfill commitments in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments).

(Part 1, Article 50 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

2. An application of chairman businessman of the farm on instituting bankruptcy proceedings is filed to the commercial law court in the presence of a written consent of all of members of the farm.

The farm chairman signs the application.

3. The application of the farm chairman on instituting bankruptcy proceedings, in addition to documents stipulated in Part 1 of Article 7 of this Law, must contain documents providing the following information:

on composition and cost of the farm property;

on composition and cost of property belongings of the members of the farm by the right of ownership;

on the size of profits that can be obtained by the farm upon termination of the appropriate period of agricultural works.

The indicated documents are also added by the farm chairman to the testimonial on the application on instituting bankruptcy proceedings, submitted by a creditor.

4. The farm chairman it can file to the commercial law court a plan of renewing solvency of the farm in a two-month term from the day of the commercial law court receiving of application on instituting bankruptcy proceedings for the farm.

5. In case if the application of measures stipulated by the plan of renewing solvency of the farm will enable the farm, in particular at the expense of the profits which can be received on the farm upon termination of the proper period of agricultural works, to liquidate liabilities on monetary debts and obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments), the commercial law court introduces the procedure on disposing of the farm property.

(Paragraph 1, Part 5, Article 50 with changes introduced in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

The commercial law court issues a decision on the introduction of the procedure for the farm property disposal that can be appealed in accordance with the established procedure.

6. The procedure for disposing of the farm property is introduced for the term of completion of the proper period of agricultural works taking into account the time necessary for realization of the grown (produced, produced and processed) agricultural product. The noted term cannot exceed fifteen months.

7. In case if after the introduction of the procedure for disposing of property the financial situation of the farm has worsened in connection with a natural calamity, epizooties and other unfavorable conditions, the term of procedure for disposing of property can be prolonged up on one year.

8. The procedure of disposing of the farm property can be suspended before the appointed time by the commercial law court upon an application of the asset manager or any of the creditors in case of:

non-fulfillment of measures stipulated by the plan of renewing the farm solvency;

the presence of other circumstances that testify to the impossibility of renewing solvency of the farm.

After a long-term suspension of the procedure for disposing of the farm property, the farm is declared bankrupt by the commercial law court and the liquidation procedure is opened.

9. An asset manager is appointed for the realization of the procedure for disposing of the farm property by the commercial law court, which may not have a license of an asset manager.

Plenary powers of the asset manager can be carried out by the farm chairman upon a concordance with the appointed asset manager.

10. In the case of the commercial law court declaring the farm to be bankrupt and opening of the liquidation procedure, the amount of the liquidation mass of the farm will include the real estate, which is in joint property of members of the farm, including plantations, economic and other buildings, land-reclamative and other buildings, productive and working cattle, birds, agricultural and other mechanisms and equipment, transport vehicles, tools and other property purchased for the farm at the expense of collective funds of his members, as well as the right of lease of the land plot and other property rights belonging to the farm and having a monetary estimation.

11. In the case of bankruptcy of the farm, the land plot provided to the farm for temporary usage, including on conditions of lease, is utilized in accordance with the Land Code of Ukraine.

12. Property belonging to the chairman and members of the farm by the right of private ownership, as well as other property proven to be purchased from profits not in collective property of members of the farm, is not included to the amount of the liquidation mass.

13. The real estate, as well as property rights in relation to the real estate, which are included to the amount of the liquidation mass of the farm, can be sold only at a competition, the obligatory conditions of which is the preservation of the ear-marked purpose of agricultural objects on sale.

14. From the day of issuing of the decision on declaring the farm bankrupt and opening of the liquidation procedure the activity of the farm is stopped.

15. The commercial law court sends a copy of the decision on declaring the farm bankrupt to the body that carried out the state registration of the farm, and to the body of local self-government at the location of the farm.

(Article 50 with changes introduced in accordance with  
Law of Ukraine # 2454-IV of 03.03.2005)

### **Article 51. Features of Application of the Bankruptcy Procedure to the Debtor Liquidated by the Proprietor**

1. If the cost of debtor legal entity's property, in relation to which a decision was made on its liquidation, is not enough for satisfaction of creditors' claims, such legal entity will be liquidated in the order stipulated by this Law. In the case of exposure of the stated circumstances, the liquidator (liquidating commission) is obliged to file to the commercial law court an application on instituting bankruptcy proceedings of such legal entity.

In the case of exposure of circumstances marked in Paragraph 1 of this Part, after making a decision on liquidation, prior to establishment of the liquidating commission (appointing of a liquidator), an application on instituting bankruptcy proceedings is filed by the proprietor of the debtor's property (by the authorized person).

2. As a result of consideration of application on instituting bankruptcy proceedings of legal entity, the property of which is not enough for covering creditors' claims, the commercial law court acknowledges the debtor being liquidated to be a bankrupt, opens a liquidation procedure, and appoints a liquidator. The liquidator duties can be vested upon the head of the liquidating commission (liquidator) regardless of whether he/ she has the appropriate license.

3. Creditors have a right to declare their claims to the debtor which will be liquidated, within a monthly term from the day of publication of the announcement declaring the debtor being liquidated to be bankrupt.

4. In case if the bankruptcy case is instituted upon an application of the proprietor of the debtor's property (authorized person), which is filed prior to creation of the liquidating commission (appointing of liquidator), the consideration of the bankruptcy case is carried out without taking into account the features stipulated this Article.

5. Non-fulfillment of requirements stipulated in Part 1 of this Article, is foundation for refusal to enter the record on liquidation of the legal entity to the Unified State Register of Enterprises and Organizations of Ukraine.

6. The proprietor of the debtor's property (authorized person), the director of the debtor, the head of the liquidating commission (liquidator), which allowed for a violation of requirements of Part 1 of this Article, bear joint responsibility for the unsettled claims on monetary liabilities and obligations in relation to payment of insurance fees for obligatory state pension insurance and other types of obligatory state social security, taxes and fees (obligatory payments) of the debtor.

(Part 6, Article 51 with changes introduced  
in accordance with Law of Ukraine # 3108-IV of 11.17. 2005)

## **Article 52. Features of Bankruptcy of an Absent Debtor**

1. In case if a citizen-businessman is a debtor or top executives of the debtor legal entity absent at its location, or in the case of the debtor failing to submit tax returns, documents of accounting control for a year to the bodies of the state tax service in accordance with the legislation, as well as in the presence of other signs testifying to the absence of entrepreneurial activity of the debtor, an application on instituting claims to the debtor and the term of fulfilling the liabilities.

2. In a two-week term from the day of issuing a decision on instituting bankruptcy proceedings of the absent debtor, the commercial law court issues a decision on declaring the absent debtor bankrupt, opens the liquidation procedure and appoints the initiator creditor as liquidator upon the consent of the latter.

3. In the case of discovering property of the absent debtor of liquidator must be changed for an arbitration executive upon a petition of the creditor, on what the commercial law court issues a decision.

In the case the liquidator finds property of the absent debtor declared bankrupt, the amount of profit yield from the sale of such property is allocated for the coverage of expenditures related to the realization of the bankruptcy proceedings.

4. In case if a creditor did not file a petition in relation to the candidature of the arbitration executive (liquidator) to the commercial law court, the commercial law court sends its ruling to the state body for bankruptcy issues, which is obligated to provide participation in liquidation matters from a number the employees of the state body for bankruptcy issues within seven days from the date of issuing the decision.

5. A liquidator notifies all known creditors of absent debtor in writing on the commercial law court ruling on declaring the absent debtor bankrupt; then in a monthly term from the day of receiving the message, the creditors can send to the liquidator applications with claims to the bankrupt.

6. Upon a petition of the liquidator in the case of discovering property of the absent debtor declared bankrupt, the commercial law court can issue a decision on stopping the liquidation procedure stipulated in this Article, and passing to general judicial procedures for bankruptcy cases stipulated by this Law.

7. Settlement of creditors' claims is carried out in order of priority stipulated in Article 31 of this Law. Creditors can appeal the results of the liquidator's consideration of their claims in the commercial law court prior to approval by the commercial law court of liquidating balance.

(Article 52 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

### **Article 53. Peculiarities of the Reorganization Conducted by the Debtor Enterprise's Director**

1. The Debtor Enterprise's Director has the right to file an application in accordance with requirements of Article 7 of this Law on instituting a bankruptcy case in order to conduct a reorganization procedure before creditors file an application on instituting a bankruptcy case if the following conditions are met:

Available decision of a body authorized – in accordance with the legislation or the debtor's statutory documents – to make decisions on filing applications on instituting a bankruptcy case to commercial law courts, and in case if such authority is not defined – an available decision of the debtor's body authorized to make decisions pertaining to reorganization or liquidation of the debtor;

Available reorganization plan and a written consent of creditors, whose total amount of claims exceeds 50 percent of the debtors total liabilities according to its accounting data, to implement the said plan and to appoint the debtor enterprise's director as reorganization manager.

2. In order for the director to conduct a reorganization of the debtor enterprise, the debtor's director files an application to the commercial law court in accordance with procedures set forth by this Law on instituting a bankruptcy case in order to conduct a reorganization taking into account peculiarities stipulated by this Article. The abovementioned director's application is appended with the debtor reorganization plan agreed with its creditors that gave their consent to conduct it, a written consent of creditors to appoint the debtor enterprise's director as reorganization manager and a proposal as to the nomination of the asset manager.

3. After examining the debtor's application in case this application and appended documents are conforming with requirements set forth by this Law, the court issues an approval on instituting bankruptcy proceedings and commence the reorganization procedure, introduce a moratorium on satisfying creditors' claims and appoints an asset manager and a reorganization manager – debtor enterprise's director, who act in accordance with requirements of this Law taking into account peculiarities stipulated by this Article.

The reorganization manager – debtor enterprise's director carries out his/ her scope of authority in accordance with this Law, taking into account limitations established in Part 13, Article 13 of this Law.

4. The reorganization manager – debtor enterprise's director is liable to file a notification on instituting bankruptcy proceedings and commencing the reorganization procedure to an official gazette and to file proof of printing this information to the commercial law court within 30 days from the day of issuing an approval on instituting bankruptcy proceedings and commencing the reorganization procedure.

5. The notification must contain:

Data on instituting bankruptcy proceedings and commencing the reorganization procedure;

Full name of the debtor, its location, its bank account details;

Identification code of the debtor according to the Unified State Register of Enterprises and Organizations of Ukraine;

Data on the reorganization manager – debtor enterprise's director and on the asset manager.

6. Creditors file to the commercial law court written applications containing their claims to the debtor and other supporting documents, and/ or creditors' protests against carrying out the reorganization procedure by the debtor enterprise's director within one month from the day of publishing the debtor's notification on instituting bankruptcy proceedings and commencing the reorganization procedure.

7. In accordance with requirements of this Law, the reorganization manager – debtor enterprise's director along with the asset manager are liable to examine creditors' claims and to draw up a register of creditors' claims, and to notify the applicants and the commercial law court on their findings in written.

8. In accordance with procedure established by this Law, the commercial law court examines the register of creditors' claims, creditors' claims objected by the debtor and excluded from the register of creditors' claims. Based on the results of the examination, the commercial law court issues an approval

containing the amount of creditors' claims recognized by the court, approves the register of creditors' claims and sets the date of creditor meeting.

9. The procedure for conducting the creditor meeting, the creditor committee institution and functioning is established by this Law. The creditor committee must file to the commercial law court an approved plan of the debtor reorganization within one month from the date of its institution.

10. The commercial law court approves the debtor reorganization plan and issues its decision to this effect, which can be appealed in due order. The debtor commences to proceed with the reorganization plan after its approval by the court.

11. If the bankruptcy case was instituted upon creditor/-s application, the creditor committee has the right to file a petition to the commercial law court on appointing the debtor's director as the reorganization manager, as well as appointing an asset manager. The reorganization manager and the asset manager act in accordance with requirements of this Law, taking into account peculiarities stipulated by this Article.

12. The reorganization manager – debtor enterprise's director carries out the duties of the reorganization manager without a license and receives the same salary as before his/ her appointment as the reorganization manager.

13. The reorganization manager – debtor enterprise's director may be freed by the commercial law court from his/her duties of the reorganization manager based on a creditor committee or asset manager notification.

The fact of freeing the debtor enterprise's director from his/her duties of the reorganization manager withdraws the director's right to reorganize the debtor enterprise on his/ her own.

14. The asset manager continues to carry out his/ her duties during the whole period when the reorganization manager – debtor enterprise's director reorganizes the enterprise.

15. In case of failure to execute the debtor reorganization plan or if it becomes obvious that the execution of the debtor reorganization plan will not lead to the renewal of the debtor's solvency, the bankruptcy procedure is carried out in accordance with this Law, and the commercial law court issues a decision to this effect.

(Article 53 in the version of  
Law of Ukraine # 3088-III of 03.07. 2002)

## **SECTION VII CLOSING PROVISIONS**

1. This Law is effective from January 1, 2000.

Paragraph 2, Item 1, Section VII has become invalid

(in accordance with Law of Ukraine  
# 2238-III of 01.18. 2001)

Provisions of this Law on licensing arbitration executives come into effect from October 1, 1999.

Commercial law courts apply provisions of this Law when examining bankruptcy cases instituted after January 1, 2000.

When commercial law courts examine bankruptcy cases after January 1, 2000, they may apply provisions of this Law on introducing moratorium on satisfying creditors' claims, assigning arbitration executives, introducing debtor asset managing procedures, debtor reorganization, liquidation procedure and arranging an amicable settlement upon filed applications of the bankruptcy case parties or by the court's initiative, irrelevant of the bankruptcy case institution date; at that, the respective time periods are calculated from the date when the commercial law court adopted an approval of this issue. In this case, any further bankruptcy proceedings are carried out in accordance with this Law.

Bankruptcy cases of mining enterprises (mining complexes, mines, mineries, pits, quarries, open excavations, washeries, mine-building enterprises), the part of the state property in whose charter funds makes no less than 25 percent, are not instituted from the date of entering into effect of the Law of Ukraine "On Renewal of the debtor's Solvency or Declaring Its Bankruptcy" until January 1, 2010.

(Item 1, Section VII is amended with the Paragraph in accordance with  
Law of Ukraine # 597-IV of 03.06. 2003,  
Paragraph 6, Item 1, Section VII in the version of  
Laws of Ukraine # 1499-IV of 02.17. 2004,  
# 2354-IV of 01.18. 2005,  
# 585-V of 01.11. 2007)

Institution of the bankruptcy cases of mining enterprises (mining complexes, mines, mineries, pits, quarries, open excavations, washeries, mine-building enterprises), the part of the state property in whose charter funds makes no less than 25 percent, and which were instituted after January 1, 2000, is to be suspended.

(Item 1, Section VII is amended with the Paragraph in accordance with  
Law of Ukraine # 597-IV of 03.06. 2003,  
Paragraph 7, Item 1, Section VII in the version of  
Law of Ukraine # 1499-IV of 02.17. 2004)

Provisions of this Law on instituting bankruptcy cases of fuel and energy complex enterprises participating in the debt redemption procedure on terms defined by the Law of Ukraine "On Measures Aimed at Ensuring a Steady Functioning of Fuel and Energy Complex Enterprises" are applied taking into account peculiarities defined by the Law of Ukraine "On Measures Aimed at Ensuring a Steady Functioning of Fuel and Energy Complex Enterprises".

(Item 1, Section VII is amended with the Paragraph in accordance with  
Law of Ukraine # 2711-IV of 06.23. 2005)

2. Regulatory and legal acts adopted before this Law came into force are valid in the part that does not contradict this Law.

3. The Cabinet of Ministers of Ukraine on the day this Law enters into force:

Is to prepare and file proposals on introducing changes to legislative acts connected with this Law to the Verkhovna Rada of Ukraine;

Develop their own legal acts and make them conforming with this Law;

Ensure that Ministries and other central bodies of executive power of Ukraine develop and adopt legal acts in accordance with this Law;

Ensure that Ministries and other central bodies of executive power of Ukraine review and cancel any of their legal acts in contradiction with this Law.

4. To recommend to the President of Ukraine to make his acts conforming to this Law.

5. To introduce changes to the following legal acts of Ukraine:

1) Item 1, Article 5, Section VII became invalid

(due to the Criminal Code of Ukraine of 12.28.60 losing force in accordance with the Criminal Code of Ukraine # 2341-III of 04.05.2001)

2) Part 1, Article 40 of the Code of Laws on Labor of Ukraine (Gazette of the Verkhovna Rada of USSR, 1971, # 50, Art. 375; 1984, # 1, Art. 3; 1986, # 27, Art. 539; 1988, # 23, Art. 556; 1991, # 23, Art. 267; Gazette of the Verkhovna Rada of Ukraine, 1994, # 33, Art. 297; 1995, # 5, Art. 30, # 28, Art. 204) to amend Item 9 with the following content:

“9) Enterprise bankruptcy”;

3) in Commercial Procedural Code of Ukraine (Gazette of the Verkhovna Rada of Ukraine, 1992, # 6, Art. 56; 1997, # 25, Art. 171):

Part 3, Article 2 to set forth in the following wording:

“Commercial law court institutes bankruptcy cases upon written application of any of the debtor’s creditors”;

Part 2, Article 4-1 to set forth in the following wording:

“Commercial law courts examine bankruptcy cases in accordance with procedures stipulated by this Code, taking into account peculiarities established by the Law of Ukraine “On Renewal of the debtor’s Solvency or Declaring Its Bankruptcy”;

4) Part 4, Article 4 of the Law of Ukraine “On Entrepreneurship” (Gazette of the Verkhovna Rada of USSR, 1991, # 14, Art. 168; Gazette of the Verkhovna Rada of Ukraine, 1998, # 17, Art. 80, # 26, Art. 158; 1999, # 7, Art. 52, # 8, Art. 60) to amend with a Paragraph with the following content:

“Activity of arbitration executives (asset managers, reorganization managers, liquidators)”;

5) Part 3, Article 9 of the Law of Ukraine “On Taxation System” (Gazette of the Verkhovna Rada of Ukraine, 1997, # 16, Art. 119) to set forth in the following wording:

“3. Duty of a legal entity to pay taxes and fees (obligatory payments) is suspended after its payment or cancellation or writing off of tax arrears in accordance with the law of Ukraine “On Renewal of the debtor’s Solvency or Declaring Its Bankruptcy”. In case the legal entity is liquidated, its tax/ fees (obligatory payment) arrears are paid in accordance with procedures established by Laws of Ukraine. In case of an amicable settlement within bankruptcy proceedings, tax/ fees (obligatory payment) arrears are paid in the amount set forth by the amicable settlement drawn up in accordance with procedures established by Laws of Ukraine;”

6) Item 9, Article 11 of the Law of Ukraine “On the State Tax Service of Ukraine” (Gazette of the Verkhovna Rada of Ukraine, 1998, # 29, Art. 190) to amend with words “as well as to make decisions in reorganization procedures on remission (writing off) and (or) deferral (installments) of tax and fee (obligatory duties) payment in accordance with Law of Ukraine “On Renewal of the debtor’s Solvency or Declaring Its Bankruptcy”.

**President of Ukraine**  
**Kyiv**  
**May 14, 1992**  
**# 2343-XII**

**L. KRAVCHUK**

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