

BANKRUPTCY LAW

(No. 21/2004/QH11 of June 15, 2004)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the 10th National Assembly, the 10th session;

This Law provides for bankruptcy of enterprises, cooperatives.

Chapter I

GENERAL PROVISIONS

Article 1. Regulation scope

This Law prescribes the conditions and the submission of applications for opening of bankruptcy procedures; the determination of property obligations and measures to preserve property in bankruptcy procedures; the conditions and procedures for restoration of business operation, the procedures for property liquidation and bankruptcy declaration; the rights, obligations and responsibilities of the applicants for opening of bankruptcy procedures, of the enterprises and cooperatives requested for bankruptcy declaration and of the participants in the settlement of requests for bankruptcy declaration.

Article 2. Subjects of application

1. This Law applies to enterprises, cooperatives, unions of cooperatives (cooperatives and unions of cooperatives are referred collectively to as cooperatives), which are established and operate according to law provisions.

2. The Government shall specify the list of, and the application of this Law to, special enterprises in direct service of defense and security; enterprises and cooperatives operating in the financial, banking, insurance or other domains, which constantly and directly provide essential public-utility products and/or services.

Article 3. Enterprises, cooperatives which fall into the state of bankruptcy

Enterprises, cooperatives, which are incapable of repaying their due debts at creditors' requests, shall be regarded as falling into the state of bankruptcy.

Article 4. Effect of the Bankruptcy Law

1. The Bankruptcy Law and other law provisions shall apply when settling the bankruptcy of

enterprises, cooperatives operating in the territory of the Socialist Republic of Vietnam, except otherwise provided for by international agreements which the Socialist Republic of Vietnam has signed or acceded to.

2. Where there appears the difference between the provisions of the Bankruptcy Law and the provisions of other laws on the same matters, the provisions of the Bankruptcy Law shall apply.

Article 5. Bankruptcy procedures

1. The bankruptcy procedures applicable to enterprises and cooperatives which fall into the state of bankruptcy shall include:

- a) The submission of applications for, and opening of bankruptcy procedures;
- b) The restoration of business operation;
- c) The liquidation of properties, debts;
- d) The declaration of bankruptcy of enterprises, cooperatives.

2. After the decisions to open the bankruptcy procedures are issued, the judges, basing themselves on the specific provisions of this Law, shall decide to apply either one of the two procedures prescribed at Point b and Point c, Clause 1 of this Article or decide to shift from the application of procedures for restoration of business operation to the application of procedures for liquidation of properties, debts or declaration of bankruptcy of enterprises, cooperatives.

Article 6. Interpretation of terms and phrases

In this Law, the terms and phrases below shall be construed as follows:

1. *Guaranteed creditors* mean creditors who have debts secured with properties of enterprises, cooperatives or the third persons.

2. *Partially guaranteed creditors* mean creditors who have debts secured with properties of enterprises, cooperatives or the third persons and the value of the security property is lower than such debts.

3. *Unguaranteed creditors* mean creditors whose debts are not secured with properties of enterprises, cooperatives or the third persons.

4. *Lawful representatives of enterprises, cooperatives* include the representatives at law and the representatives under authorization.

5. *Bilateral contracts* mean contracts where the contractual parties shall all have the rights and obligations; the rights of one party shall be the obligations of the other party and vice versa.

Article 7. The courts' jurisdiction

1. The people's courts of rural districts, urban districts, provincial capitals, provincial towns (hereinafter referred collectively to as the district-level people's courts) have the competence to carry out bankruptcy procedures for cooperatives which have already made their business registration at the district-level business registries in their respective localities.
2. The people's courts of the provinces and centrally-run cities (hereinafter referred collectively to as the provincial-level people's courts) have the competence to carry out bankruptcy procedures for enterprises, cooperatives, which have made their business registration at the provincial-level business registries in their respective localities.

In case of necessity, the provincial-level people's courts may carry out the bankruptcy procedures for cooperatives which fall under the jurisdiction of the district-level people's courts.

3. The provincial-level people's courts of the localities where foreign-invested enterprises in Vietnam are headquartered have the competence to carry out the bankruptcy procedures for such foreign-invested enterprises.

Article 8. Tasks and powers of judges who carry out the bankruptcy procedures

1. The carrying out of bankruptcy procedures at the district-level people's court shall be undertaken by a judge, and by a judge or a three-judge team at the provincial-level people's court.
2. Where the bankruptcy procedures are carried out by a three-judge team, one of those judges shall be assigned to act as the team leader.

The working regulations of the judges' teams shall be prescribed by the chairman of the Supreme People's Court.

3. Judges or judges' teams (hereinafter called collectively as judges) have the tasks and powers to supervise and carry out the bankruptcy procedures. In the course of carrying out the bankruptcy procedures, if detecting criminal signs, the judges shall supply documents (the copies) to the people's procuracies of the same level for considering the institution of lawsuits according to criminal procedures while proceeding with the bankruptcy procedures according to the provisions of this Law.
4. The judges are answerable to their chief judges and law for the performance of their tasks and the exercise of their powers.

Article 9. Property-managing and -liquidating teams

1. Together with the issuance of decisions to open the bankruptcy procedures, the judges shall issue decisions on setting up property-managing and - liquidating teams to perform the tasks of managing, liquidating the properties of enterprises and/or cooperatives which fall into the state of

bankruptcy.

2. A property-managing and -liquidating team is composed of:

- a) An executor of the judgment-executing agency of the same level as team leader;
- b) An official of the court;
- c) A representative of the creditor;
- d) The lawful representative of the enterprise or cooperative subject to the opening of bankruptcy procedures;
- e) In cases where it is necessary that the representative of the trade union organization, the laborers' representative, the representative of professional agencies join the property-managing and -liquidating team, the judge shall consider and decide thereon.

3. Based on the provisions of this Law, the legislation on civil judgment execution and other relevant law provisions, the Government shall promulgate the Regulation on organization and operation of the property-managing and -liquidating teams after reaching agreement with the Supreme People's Court.

Article 10. Tasks, powers and responsibilities of the property-managing and -liquidating teams

1. The property-managing and -liquidating teams shall have the following tasks and powers:

- a) To make the lists of available properties of enterprises, cooperatives;
- b) To supervise and examine the use of properties of enterprises, cooperatives;
- c) To propose judges to decide on the application of provisional emergency measures to preserve the properties of enterprises, cooperatives in case of necessity;
- d) To make lists of creditors and debt amount payable to each creditor; the debtors and receivable debt amounts of the enterprises, cooperatives;
- e) To retrieve and manage properties, documents, accounting books and seals of the enterprises and/or cooperatives which are subject to the application of liquidation procedures;
- f) To realize the plans on property division under decisions of judges;
- g) To detect and propose judges to issue decisions to recover properties, property value or the difference of the value of the properties of enterprises or cooperatives subject to the application of liquidation procedures, which were sold or transferred illegally in the cases prescribed in

Clause 1, Article 43 of this Law;

h) To execute the judges' decisions to auction properties of the enterprises, cooperatives subject to the application of liquidation procedures strictly according to law provisions on auction;

i) To deposit money amounts collected from debtors and from auction of properties of the enterprises, cooperatives into accounts opened at banks;

j) To execute other decisions of judges in the course of carrying out the bankruptcy procedures.

2. The property-managing and -liquidating teams shall perform the tasks and exercise the powers prescribed at Points e, f, g, h and j of Clause 1, this Article according to law provisions on execution of civil judgments, other relevant law provisions and take responsibility before law for the performance of their tasks and the exercise of their powers.

Article 11. Tasks, powers and responsibilities of the property-managing and- liquidating team leaders

1. The property-managing and-liquidating team leaders shall have the following tasks and powers:

a) To administer their property-managing and -liquidating teams in performing the tasks and exercising the powers prescribed in Article 10 of this Law;

b) To open accounts at banks to deposit money amounts collected from debtors and from the auction of properties of the enterprises and/or cooperatives subject to the application of liquidation procedures in necessary cases;

c) To organize the execution of judges' decisions.

2. The property-managing and -liquidating team leaders shall take responsibility before law for the performance of their tasks and the exercise of their powers.

Article 12. Supervising the law observance in the course of carrying out the bankruptcy procedures

The people's procuracies shall supervise the law observance in the course of carrying out the bankruptcy procedures according to the provisions of this Law and the Law on Organization of the People's Procuracies.

Chapter II

**SUBMISSION AND RECEPTION OF APPLICATIONS FOR OPENING OF
BANKRUPTCY PROCEDURES**

Article 13. Creditors' right to submit applications for opening of bankruptcy procedures

1. When realizing that enterprises and/or cooperatives fall into the state of bankruptcy, the unguaranteed or partially guaranteed creditors shall all have the right to submit applications for the opening of bankruptcy procedures applicable to such enterprises and/or cooperatives.
2. The application for opening of bankruptcy procedures shall contain the following principal details:
 - a) The day, month, year of making the application;
 - b) The name and address of the applicant;
 - c) The name and address of the enterprise or cooperative falling into the state of bankruptcy;
 - d) The unsecured or partially secured due debts not repaid by the enterprise or cooperative;
 - e) The course of debt reclaiming;
 - f) The grounds of requesting the opening of bankruptcy procedures.
3. The applications for the opening of bankruptcy procedures must be sent to the competent courts defined in Article 7 of this Law.

Article 14. Laborers' right to submit applications for the opening of bankruptcy procedures

1. Where enterprises or cooperatives cannot pay wages and/or other debt amounts to laborers and are deemed falling into the state of bankruptcy, the laborers shall appoint their representatives to submit or submit through trade union representatives the applications for opening of bankruptcy procedures against such enterprises or cooperatives.

The laborers' representatives shall be lawfully appointed when they are voted for with secret ballots or signatures by more than half of the laborers in the enterprises or cooperatives; for large-sized enterprises or cooperatives comprising many attached units, the lawfully-appointed representatives of laborers must be voted for by more than half of the representatives of the attached units.

2. The application for opening of bankruptcy procedures shall contain the following details:
 - a) The day, month and year of making the application;
 - b) The name and address of the applicant;
 - c) The name and address of the enterprise or cooperative falling into the state of bankruptcy;
 - d) The number of months for which wages have not been paid, the total wage and other debt

amounts not yet paid to laborers by the enterprise or cooperative;

e) The grounds of requesting the opening of bankruptcy procedures.

3. The applications for opening of bankruptcy procedures must be sent to the competent courts defined in Article 7 of this Law.

4. After the applications are submitted, the laborers' representatives or trade union representatives are considered the creditors.

Article 15. Obligation to submit applications for opening of bankruptcy procedures of the enterprises or cooperatives which fall into the state of bankruptcy

1. Upon realizing that enterprises or cooperatives fall into the state of bankruptcy, the owners of such enterprises or the lawful representatives of the enterprises or cooperatives have the obligation to submit applications for opening of bankruptcy procedures for such enterprises or cooperatives.

2. The application for opening of bankruptcy procedures must contain the following principal details:

a) The day, month, year of making the application;

b) The name and address of the enterprise or cooperative;

c) The grounds of requesting the opening of bankruptcy procedures.

3. The applications for opening of bankruptcy procedures must be sent to the competent courts defined in Article 7 of this Law.

4. The following papers and documents must be submitted together with the applications for opening of the bankruptcy procedures:

a) The report on business activities of the enterprise or cooperative, which clearly explains the causes and circumstances related to the state of insolvency; if the enterprise is a joint-stock company for which the law requires the audit, its financial statement must be certified by an independent auditing organization;

b) The report on measures already taken by the enterprise or cooperative, which, however, have not redressed the state of its incapability of repaying due debts;

c) The detailed list of assets of the enterprise or cooperative and the locations of visible assets;

d) The list of creditors of the enterprise or cooperative, with their names and addresses clearly inscribed; the banks where the creditors open their accounts; the secured and unsecured due

debts; the secured and unsecured immature debts;

e) The list of debtors of the enterprise or cooperative, with their names and addresses clearly inscribed; the banks where they open their accounts; the secured and unsecured due debts; the secured and unsecured immature debts;

f) The list clearly inscribing the names and addresses of members of the company being the indebted enterprise, who jointly bear responsibility for the debts owed by the enterprise;

g) Other documents to be supplied by the enterprise or cooperative at the court's request under law provisions.

5. Within three months after realizing that the enterprises or cooperatives fall into the state of bankruptcy, if the owners of such enterprises or the lawful representatives of the enterprises or cooperatives fail to submit the applications for opening of bankruptcy procedures, they must bear responsibility under law provisions.

Article 16. The State enterprise owners' right to submit applications for opening of bankruptcy procedures

1. When realizing that State enterprises fall into the state of bankruptcy but the enterprises decline to fulfill the obligation to submit the applications for opening of bankruptcy procedures, the representatives of the enterprises' owners shall have the right to submit applications for opening of bankruptcy procedures for such enterprises.

2. The applications for opening of bankruptcy procedures and the papers as well as documents enclosed therewith shall comply with the provisions in Article 15 of this Law.

Article 17. Joint-stock company shareholders' right to file applications for opening of bankruptcy procedures

1. When realizing that their joint-stock companies fall into the state of bankruptcy, shareholders or groups of shareholders may file their applications for opening of bankruptcy procedures according to the companies' charters; if it is not so prescribed by the companies' charters, the applications shall be submitted under resolutions of the shareholders' congresses. Where the companies' charters do not so prescribe while the shareholders' congress cannot be held, shareholders or groups of shareholders owning more than 20% of the common shares for at least 6 consecutive months are entitled to file applications for opening of bankruptcy procedures against such joint-stock companies.

2. The applications for opening of bankruptcy procedures and the papers as well as documents enclosed with the applications shall comply with the provisions in Articles 15 of this Law, except for the papers and documents prescribed at Points d, e and f of Clause 4, Article 15 of this Law.

Article 18. The partnership members' right to submit applications for opening of bankruptcy procedures

1. When realizing that partnerships fall into the state of bankruptcy, the partnership members shall have the right to submit applications for opening of bankruptcy procedures for such partnerships.
2. The applications for opening of bankruptcy procedures and the papers as well as documents enclosed therewith shall comply with the provisions of Article 15 of this Law.

Article 19. Obligations and responsibilities of applicants for opening of bankruptcy procedures

1. The applicants for opening of bankruptcy procedures defined in Articles 13, 14, 15, 16, 17 and 18 of this Law shall have the obligations to supply in full and time the law-prescribed documents at the courts' requests in the course of carrying out the bankruptcy procedures.
2. The applicants for opening of bankruptcy procedures, who, due to their unobjectiveness, have caused adverse impacts on the honor, prestige or business activities of enterprises or cooperatives or commit frauds in requesting the opening of bankruptcy procedures, shall, depending on the nature and seriousness of their acts, be disciplined, administratively sanctioned or examined for penal liability; if causing damage, they must pay compensation therefore according to law provisions.

Article 20. Notification on enterprises, cooperatives falling into the state of bankruptcy

1. While performing their functions and tasks, if realizing that enterprises or cooperatives fall into the state of bankruptcy, the courts, procuracies, inspectorates, capital-managing agencies, auditing organizations or agencies having decided on the establishment of the enterprises, which are not the State-owners of the enterprises, shall have to notify in writing the persons entitled to submit applications for opening of bankruptcy procedures thereof so that they consider the submission of applications for opening of bankruptcy procedures.
2. The notifying agencies must bear responsibility for the truthfulness of such notification.

Article 21. Bankruptcy charges and advance of bankruptcy charges

1. The bankruptcy charges shall be used for carrying out the bankruptcy procedures. The courts shall decide on the payment of bankruptcy charges on a case-by-case basis under law provisions on charges and fees.
2. The applicants for opening of bankruptcy procedures must advance bankruptcy charges under courts's decisions, except for cases where the applicants for opening of bankruptcy procedures are laborers defined in Article 14 of this Law.

3. The bankruptcy charges shall be advanced by the State budget in the following cases:

- a) The applicants for opening of bankruptcy procedures fall into the cases where bankruptcy charges must not be advanced;
- b) The applicants for opening of bankruptcy procedures have to advance the bankruptcy charges but do not have money for payment, but have other assets.

The bankruptcy charges advanced by the State budget shall be refunded to the State budget and deducted from the assets of the enterprises, cooperatives which fall into the state of bankruptcy.

Article 22. Reception of applications for opening of bankruptcy procedures

1. After receiving the applications for opening of bankruptcy procedures, if deeming it necessary to amend the applications and/or supplement documents, the courts shall request the applicants to effect the amendment and/or supplementation within ten days as from the date of receiving the courts' requests.

2. The courts shall process the applications for opening of bankruptcy procedures as from the date the applicants produce the receipts of bankruptcy charge advance payment. Where the applicants shall not have to pay the bankruptcy charge advance, the date of processing the applications shall be the date the courts receive the applications. The courts shall have to issue to the applicants the notices that their applications have been received and processed.

Article 23. Notification on the reception and processing of applications for opening of bankruptcy procedures

1. Where the applicants are not the owners of enterprises or lawful representatives of enterprises or cooperatives which fall into the state of bankruptcy, within five days as from the date of receiving and processing the applications, the courts must notify the enterprises or cooperatives thereof.

2. Within fifteen days as from the date of receiving the courts' notices, the enterprises and/or cooperatives must produce to the courts the papers and documents prescribed in Clause 4, Article 15 of this Law; if the enterprises or cooperatives which fall into the state of bankruptcy act as guarantors for other persons, within five days as from the date of receiving the courts' notices, the enterprises and/or cooperatives must notify their state of being requested for opening of bankruptcy procedures to the relevant persons.

Article 24. Return of applications for opening of bankruptcy procedures

The courts shall decide on the return of applications for opening of bankruptcy procedures in the following cases:

1. The applicants fail to pay bankruptcy charge advance within the time limit set by the courts;

2. The applicants have no right to submit applications;
3. Other courts have already opened the bankruptcy procedures for the enterprises or cooperatives which fall into the state of bankruptcy;
4. There are clear grounds showing that the submission of applications for opening of bankruptcy procedures has, due to unobjectiveness, caused adverse impacts on the honor, prestige and/or business operation of the enterprises or cooperatives or deception is found in requesting the opening of bankruptcy procedures;
5. The enterprises or cooperatives can prove that they do not fall into the state of bankruptcy.

Article 25. Complaints about the return of applications for opening of bankruptcy procedures

1. Within ten days as from the date of receiving the courts' decisions on the return of their applications for opening of bankruptcy procedures, the applicants may complain thereabout with the chief judges of such courts.
2. Within seven days as from the date of receiving the written complaints about the decisions to return applications for opening of bankruptcy procedures, the courts' chief judges must issue one of the following decisions:
 - a) To retain the decisions on the return of applications for opening of bankruptcy procedures;
 - b) To cancel the decisions on the return of applications for opening of bankruptcy procedures and to receive and process the applications according to the provisions of this Law.

Article 26. Transferring the settlement of bankruptcy to other courts; settling disputes over jurisdiction

1. After receiving the applications for opening of bankruptcy procedures, if deeming that the settlement of bankruptcy does not fall under their jurisdiction, the courts which have received the applications shall transfer the bankruptcy settlement to the competent courts and notify the applicants for opening of bankruptcy procedures thereof.
2. Disputes over jurisdiction among district-level people's courts in the same province shall be settled by the chief judges of the provincial-level people's courts.

Disputes over jurisdiction among district-level people's courts of different provinces or among provincial-level people's courts shall be settled by the chairman of the Supreme People's Court.

Article 27. Suspension of requests for fulfillment of property obligations by enterprises or cooperatives which fall into the state of bankruptcy

As from the date the courts receive applications for opening of bankruptcy procedures, the

settlement of the following requests for fulfillment of property obligations by the enterprises or cooperatives which fall into the state of bankruptcy must be suspended:

1. The execution of civil judgments regarding property where the enterprises or cooperatives are the judgment debtors;
2. The settlement of cases of demanding the enterprises, cooperatives to fulfill their property obligations;
3. The handling of secured assets of the enterprises, cooperatives for guaranteed creditors, except where so permitted by courts.

Article 28. Decision to open or not to open the bankruptcy procedures

1. Within thirty days as from the date of receiving applications for opening of bankruptcy procedures, the courts must issue decisions to open or not to open the bankruptcy procedures.
2. The courts shall issue decisions to open the bankruptcy procedures when there are grounds proving that the enterprises, cooperatives fall into the state of bankruptcy. In necessary cases, before issuing decisions to open the bankruptcy procedures, the courts may convene sessions with the participation of the applicants for the opening of the bankruptcy procedures, the owners of the enterprises or the lawful representatives of the enterprises or cooperatives which are requested for opening of bankruptcy procedures, concerned individuals and organizations to consider and check the grounds proving that the enterprises or cooperatives fall into the state of bankruptcy.
3. The decisions to open the bankruptcy procedures contain the following principal details:
 - a) The day, month and year of issuing the decision;
 - b) The name of the court; full name of the judge in charge of carrying out the bankruptcy procedures;
 - c) The date and serial number of the reception of the application for opening of bankruptcy procedures; the name and address of the applicant;
 - d) The name and address of the enterprise, cooperative falling into the state of bankruptcy;
 - e) The time and venue for declaration by creditors and the legal consequences of the non-declaration.
4. Courts shall issue decisions not to open the bankruptcy procedures if deeming that the enterprises or cooperatives have not yet fallen into the state of bankruptcy.

Article 29. Notification of decisions to open the bankruptcy procedures

1. The courts' decisions on opening of bankruptcy procedures shall be sent to the enterprises or cooperatives which fall into the state of bankruptcy, the procuracies of the same level and be published in local newspapers of the localities where the enterprises or cooperatives which fall into the state of bankruptcy are headquartered, and in the central dailies for three consecutive issues.
2. The courts' decisions on opening of bankruptcy procedures must be notified to the creditors, the debtors of the enterprises or cooperatives which fall into the state of bankruptcy.
3. The time limit for sending and notifying the decisions on opening of bankruptcy procedures provided for in Clause 1 and Clause 2 of this Article shall be seven days as from the date the courts issue the decisions.

Article 30. Business activities of enterprises, cooperatives after the issuance of decisions to open the bankruptcy procedures

1. All business activities of enterprises, cooperatives after the issuance of decisions to open the bankruptcy procedures shall be carried out as usual, but must be subject to the supervision and inspection by judges and asset-managing and - liquidating teams.
2. In case of deeming that the managers of enterprises or cooperatives are incapable of running the business activities or their continued running of business activities will not benefit the preservation of assets of the enterprises or cooperatives, the judges, at the request of the creditors' conference, shall issue decisions to appoint persons to manage and administer the business activities of the enterprises or cooperatives.

Article 31. Banned or restricted activities of enterprises, cooperatives

1. As from the date of receiving the decisions to open the bankruptcy procedures, the enterprises or cooperatives are strictly forbidden to carry out the following activities:
 - a) Concealing, dispersing assets;
 - b) Paying unsecured debts;
 - c) Abandoning or reducing the right to reclaim debts;
 - d) Converting unsecured debts into those secured with assets of the enterprises.
2. After receiving the decisions to open the bankruptcy procedures, the following activities of the enterprises or cooperatives must be agreed upon in writing by judges before they are carried out:
 - a) Pledging, mortgaging, transferring, selling, donating, leasing assets;

- b) Receiving assets from transfer contracts;
- c) Terminating the performance of effective contracts;
- d) Borrowing money;
- e) Selling, exchanging stocks or transferring property ownership;
- f) Repaying debts newly arising from business activities of the enterprises or cooperatives and paying wages to laborers in the enterprises or cooperatives.

Article 32. Complaints about decisions not to open bankruptcy procedures

1. Decisions not to open bankruptcy procedures must be sent by courts to the applicants for opening of bankruptcy procedures. Within seven days as from the date of receiving the decisions not to open the bankruptcy procedures, the applicants shall have the right to complain thereabout to the chief judges of such courts.

2. Within five days as from the date of receiving the complaints about decisions not to open bankruptcy procedures, the courts' chief judges must issue one of the following decisions:

- a) To retain the decisions not to open bankruptcy procedures;
- b) To cancel the decisions not to open the bankruptcy procedures and issue decisions to open the bankruptcy procedures.

Chapter III

PROPERTY OBLIGATIONS

Article 33. Determination of property obligations

The property obligations of the enterprises or cooperatives which fall into the state of bankruptcy shall be determined by:

- 1. The demands that the enterprises or cooperatives fulfill their property obligations, which have been established before the courts receive the applications for opening of bankruptcy procedures and are not secured;
- 2. The demands that the enterprises or cooperatives fulfill the secured property obligations established before the courts receive the applications for opening of bankruptcy procedures, provided that the payment priority order has been cancelled.

Article 34. Handling of immature debts

Where the judges issue decisions to open the liquidation procedures for enterprises or

cooperatives, the debts not due by the time of opening the liquidation procedures shall be handled like due debts, but without calculating the interests for the duration of immaturity.

Article 35. Handling of debts secured with mortgaged or pledged assets

Where the judges issue decisions to open the liquidation procedures for enterprises or cooperatives, the debts secured with properties mortgaged or pledged before the courts receive the applications for opening of bankruptcy procedures shall be prioritized with repayment by such properties; if the value of the mortgaged or pledged property is not enough for debt repayment, the outstanding debts shall be repaid in the course of liquidating the properties of the enterprises or cooperatives; if the value of the mortgaged or pledged properties is bigger than the debts, the difference shall be added to the value of the remaining properties of the enterprises or cooperatives.

Article 36. Return of properties to the State

Enterprises which have enjoyed the special property measures applied by the State to restore their business operation but still fail to restore it and are subject to the application of liquidation procedures must reimburse the value of the property used for the application of special measures to the State before dividing their property under the provisions in Article 37 of this Law.

Article 37. Property-dividing order

1. Where the judges issue decisions to open the liquidation procedures for enterprises, cooperatives, the division of the value of property of the enterprises or cooperatives shall be effected in the following order:

a) Bankruptcy charge;

b) Debts of wage, severance allowances, social insurance under law provisions and other interests under the signed collective labor accords and labor contracts;

c) Unsecured debts payable to the creditors on the list of creditors on the principle that if the property value is enough for debt repayment, each creditor shall be repaid with his/her/its full debt amount; if the value of the property is not enough for debt repayment, each creditor shall be paid with part of his/her/its debt according to the corresponding ratio.

2. Where the value of the property of the enterprises or cooperative remains surplus after the repayment of all debts prescribed in Clause 1 of this Article, the remaining amounts shall belong to:

a) The cooperative members;

b) The owners of private enterprises;

- c) The members of companies; the shareholders of joint-stock companies;
- d) The owners of State enterprises.

3. Where the judges issue decisions to open procedures for restoration of business operation of enterprises or cooperatives, the payment shall be made in the order prescribed in Clause 1 of this Article, except otherwise agreed by the parties.

Article 38. Determination of the value of non-monetary obligations

Where obligations are not money, at the requests of the authorities or enterprises, cooperatives, the courts shall determine the value of such obligations at the time of issuing the decisions to open the bankruptcy procedures for inclusion into the property obligations of the enterprises or cooperatives.

Article 39. Property obligations in case of joint or guaranteed obligations

1. Where many enterprises or cooperatives bear joint obligation toward a debt and one or all of those enterprises or cooperatives fall into the state of bankruptcy, the creditors shall have the right to demand any of those enterprises or cooperatives to repay their debts according to law provisions.
2. Where the guarantors fall into the state of bankruptcy, the guaranteed must fulfill the property obligations towards the guarantees.
3. Where the guaranteed or both the guarantors and the guaranteed fall into the state of bankruptcy, the guarantors must fulfill the property obligations towards the guarantees.

Article 40. Return of leased or borrowed properties when enterprises or cooperatives are subject to the application of liquidation procedures

1. Within thirty days as from the date the courts issue decisions to open the liquidation procedures, the owners of the property leased or lent to the enterprises or cooperatives subject to the application of liquidation procedures for use in their business operation must produce papers proving their ownership, the leasing or lending contracts to leaders of the property-managing and-liquidating teams in order to receive back their properties. In case of disputes, courts are requested to settle them according to law provisions.
2. Where the enterprises or cooperatives subject to the application of liquidation procedures have already paid their rents in advance while the leasing duration has not yet expired, the owners can receive back their properties only after repaying the surplus money already paid for the unexpired duration so that the property-managing and-liquidating teams include them into the properties of such enterprises or cooperatives.
3. Where the to be- reclaimed properties have been already transferred by the enterprises or cooperatives subject to the application of liquidation procedures to other persons, the owners

shall have the right to claim for compensations for such properties as secured debts.

Article 41. Prohibition to reclaim properties

Any individuals or organizations that have assigned their properties to the enterprises or cooperatives falling into the state of bankruptcy before the courts receive the applications for opening of bankruptcy procedures are not allowed to reclaim their properties if such property assignment aims to ensure the performance of their obligations towards the enterprises or cooperatives.

Article 42. Receiving back sold goods

It sellers who have consigned goods to buyers being the enterprises or cooperatives, which fall into the state of bankruptcy, but not yet received the payment and the buyers have not yet received the goods, the sellers may receive back such goods.

Chapter IV

MEASURES TO PRESERVE PROPERTIES

Article 43. Transactions considered invalid

1. The following transactions of the enterprises or cooperatives falling into the state of bankruptcy, which are effected within three months before the courts receive the applications for opening of bankruptcy procedures, shall be considered invalid:

- a) Donating moveables or immoveables to other persons;
- b) Liquidating bilateral contracts in which the obligations of the enterprises or cooperatives are clearly larger than the obligations of the other party;
- c) Repaying undue debts;
- d) Mortgaging or pledging properties for debts;
- e) Other transactions aiming to disperse properties of the enterprises or cooperatives.

2. When the transactions prescribed in Clause 1 of this Article are declared invalid, the recovered properties must be included into the properties of the enterprises or cooperatives.

Article 44. Right to request courts to declare transactions invalid

1. While the courts are carrying out the bankruptcy procedures, the unguaranteed creditors, the property-managing and-liquidating teams shall have the right to request the courts to declare the enterprises' or cooperatives' transactions defined in Clause 1, Article 43 of this Law invalid.

2. The property-managing and-liquidating team leaders have the responsibility to organize the execution of the courts' decisions declaring transactions of the enterprises or cooperatives invalid in order to recover properties for the enterprises or cooperatives.

Article 45. Suspension of performance of valid contracts

1. In the course of carrying out the bankruptcy procedures, if it is deemed that the suspension of the performance of valid contracts which are being performed or have not yet been performed will be more beneficial for the enterprises or cooperatives, the performance of such contracts shall be suspended.

2. The creditors, the enterprises or cooperatives falling into the state of bankruptcy and the property-managing and- liquidating team leaders have the right to request the courts to issue decisions to suspend the contract performance.

Article 46. Written requests for suspension of contract performance

1. Requesting the courts to issue decisions to suspend the performance of valid contracts, which are being performed or have not yet been performed, must be effected in writing and cover the following principal contents:

a) The day, month and year of making the written request;

b) The name and address of the requester;

c) The serial number and name of the contract; the day, month and year of entering into the contract;

d) The partner of the enterprise or cooperative in the contract;

e) The specific contents of the contract;

f) The grounds of requesting the suspension of contract performance.

2. Within five days as from the date of receiving the written requests, if accepting, the judges shall issue decisions to suspend the contract performance; if refusing to accept, they shall notify such to the requesters.

Article 47. Payment, damage compensations when contracts are suspended from performance

1. The properties which have been received from contracts by the enterprises or cooperatives falling into the state of bankruptcy and still exist in the properties of such enterprises or cooperatives can be reclaimed by the other contractual party; if such properties no longer exist, the other contractual party shall have the rights like the unguaranteed creditors.

2. Where contracts are suspended from performance, the other party to the contracts shall have the rights like an unguaranteed creditor regarding the damage caused by the suspension of the contract performance.

Article 48. Obligation clearing

Creditors and enterprises or cooperatives which fall into the state of bankruptcy may effect obligation clearing for transactions established before the issuance of decisions to open bankruptcy procedures according to the following principles:

1. Where the two parties have obligations towards each other regarding property of the same kind, they shall not have to fulfill obligations, when due, towards each other and the obligations are considered terminating, except otherwise provided for by law;
2. Where their property values or tasks do not correspond each other, the parties shall pay the value difference to each other;
3. Objects which can be valued in money may be cleared against monetary obligations.

Article 49. Properties of enterprises or cooperatives which fall into the state of bankruptcy

1. The properties of enterprises or cooperatives which fall into the state of bankruptcy shall include:

- a) Properties and property rights possessed by the enterprises or cooperatives by the time the courts receive the applications for opening of bankruptcy procedures;
- b) The profits, properties and property rights which the enterprises or cooperatives will acquire from the performance of transactions established before the courts receive the applications for opening of bankruptcy procedures;
- c) Properties used as security for the fulfillment of obligations of the enterprises or cooperatives. In case of payment with properties being security objects to guaranteed creditors, if the value of the security objects exceeds the payable secured debts, such excessive amount shall be the property of the enterprises or cooperatives;
- d) The land use right value of enterprises or cooperatives shall be determined according to the provisions of land legislation.

2. The properties of private enterprises or partnerships which fall into the state of bankruptcy shall include the properties defined in Clause 1 of this Article and the properties of the private enterprise owners or partnership members not used directly in business activities. Where private enterprise owners or partnership members have properties under joint ownership, the property portions of those private enterprise owners or partnership members shall be divided according to the provisions of the Civil Code and other relevant law provisions.

Article 50. Inventory of properties of enterprises or cooperatives which fall into the state of bankruptcy

1. Within thirty days as from the date of receiving the decisions on opening the bankruptcy procedures, the enterprises or cooperatives which fall into the state of bankruptcy must conduct the inventory of their entire properties according to the detailed lists already submitted to the courts, and determine the values of such properties; if they deem necessary to have more time, they must file their written requests to the judges for extension, but for not more than twice, and each time shall not exceed thirty days.
2. The inventories of the valued properties must be sent immediately to the courts for carrying out the bankruptcy procedures.
3. Where the property inventory and valuation by enterprises or cooperatives as provided for in Clause 1 of this Article are deemed inaccurate, the property-managing and- and liquidating teams shall re-inventory and revalue part or whole of the properties of the enterprises or cooperatives. The property value shall be determined according to the market prices at the time of inventory.

Article 51. Forwarding debt-reclaiming papers

1. Within sixty days as from the last day of publishing in newspapers the courts' decisions on opening of bankruptcy procedures, the creditors must send their written debt reclaims to the courts, detailing the due and undue debts, the secured and unsecured debts to be paid by the enterprises or cooperatives. Enclosed with the written debt reclaims shall be documents proving those debts. Past this time limit, the creditors who do not send their written debt reclaims to the courts shall be regarded as having abandoned their right to reclaim debts.
2. In case of *force majeure* events or objective obstacles, the duration when the *force majeure* events or objective obstacles exist shall not be counted into the sixty day- time limit prescribed in Clause 1 of this Article.

Article 52. Making lists of creditors

1. Within fifteen days as from the date of expiry of the time limit for sending the written debt reclaims, the property-managing and liquidating teams must complete the lists of creditors and debt amounts. Such lists must clearly state the debt amount of each creditor, clearly identifying the secured debts, unsecured debts, due debts and undue debts.
2. The lists of creditors must be publicly posted up at the offices of the courts which carry out the bankruptcy procedures and the head-offices of the enterprises or cooperatives for ten days counting from the date of posting up. Within this time limit, creditors and enterprises or cooperatives which fall into the state of bankruptcy may complain to the courts about the lists of creditors. In case of *force majeure* events or objective obstacles, the duration when the *force majeure* events or objective obstacles exist shall not be counted into the ten day- time limit prescribed in this Clause.

3. Within three days as from the date of receiving the complaints, the courts must consider and settle them; if realizing that the complaints are well grounded, they shall amend and/or supplement the lists of creditors.

Article 53. Making lists of debtors

1. The property-managing and -liquidating teams must make the lists of persons owing debts to the enterprises or cooperatives which fall into the state of bankruptcy. These lists must clearly inscribe the debt amount owed by each debtor, clearly identifying the secured debts, unsecured debts, due debts and immature debts.

2. The lists of debtors must be publicly posted up at the offices of the courts which carry out the bankruptcy procedures and the head-offices of the enterprises or cooperatives for ten days counting from the date of posting up. Within this time limit, debtors and enterprises or cooperatives which fall into the state of bankruptcy may complain to the courts about the lists of debtors.

3. Within three days as from the date of receiving the complaints, the courts must consider and settle them; if realizing that the complaints are well grounded, they must amend and/or supplement the lists of debtors.

Article 54. Registration of secured transactions of enterprises or cooperatives which fall into the state of bankruptcy

Enterprises or cooperatives falling into the state of bankruptcy, which lease their secured properties to others, must make registration according to law provisions; if they have not yet made such registration, the property-managing and - liquidating team leaders must effect the registration of such secured transactions.

Article 55. Application of provisional emergency measures

In necessary cases at the requests of the property-managing and - liquidating teams, the judges in charge of carrying out the bankruptcy procedures shall issue decisions to apply one or some of the following provisional emergency measures in order to preserve the properties of the enterprises or cooperatives which fall into the state of bankruptcy:

1. Permitting the sale of goods easy to decay, goods with use duration going to expire, goods which will be unsalable if not being sold at due time;

2. Distraining, sealing off properties of enterprises or cooperatives;

3. Blocking accounts of enterprises or cooperatives;

4. Sealing off storehouses, funds, seizing and managing the accounting books and relevant documents of enterprises or cooperatives;

5. Forbidding or compelling enterprises, cooperatives, individuals, other relevant organizations to perform certain acts.

Article 56. Complaints about decisions on application of provisional emergency measures

1. Within three days as from the date of receiving the courts' decisions on the application of provisional emergency measures, the persons subject to the application of such measures may complain to the courts' chief judges.

2. Within three days as from the date of receiving the written complaints about the decisions on application of provisional emergency measures, the courts' chief judges must issue one of the following decisions:

a) To retain the decisions on application of provisional emergency measures;

b) To cancel part or whole of the decisions on application of provisional emergency measures.

Article 57. Suspension of civil judgment execution or case settlement

1. As from the date the courts issue decisions to open the bankruptcy procedures, the execution of civil judgments regarding property in which the enterprises or cooperatives in the state of bankruptcy are judgment debtors must be suspended.

The judgment creditors may file their applications to courts requesting to be paid from the properties of the enterprises or cooperatives as unguaranteed creditors or guaranteed creditors, if the courts' judgments or decisions to distrain properties of the enterprises or cooperatives to secure the judgment execution have taken legal effect.

2. As from the date the courts issue decisions to open the bankruptcy procedures, the settlement of cases related to property obligations in which the enterprises or cooperatives constitute an involved party must be suspended. The courts which decide to suspend the settlement of such cases must transfer the case dossiers to the courts which are carrying out the bankruptcy procedures for settlement.

Article 58. Settlement of suspended cases in bankruptcy procedures

1. Immediately after receiving the case dossiers transferred by the courts which decide to suspend the settlement of cases, the courts which are carrying out the bankruptcy procedures must consider and decide on the property obligations to be performed by the enterprises or cooperatives which fall into the state of bankruptcy or the property obligations towards the enterprises or cooperatives to be performed by the involved parties.

2. Where the enterprises or cooperatives falling into the state of bankruptcy have to perform the property obligations, the persons towards whom the enterprises or cooperatives perform the property obligations may request to be paid from the properties of the enterprises or cooperatives

as unguaranteed creditors.

3. Where the involved parties must perform the property obligations towards the enterprises or cooperatives which fall into the state of bankruptcy, they must pay to the enterprises or cooperatives the value corresponding to such property obligations.

Article 59. Obligations of banks where enterprises or cooperatives open their accounts

As from the date of receiving the courts' decisions on the application of liquidation procedures to enterprises or cooperatives, the banks where the enterprises or cooperatives subject to the application of liquidation procedures open their accounts are strictly forbidden to perform the following acts:

1. Paying debts of enterprises or cooperatives, except for the payment agreed in writing by the judges in charge of carrying out the bankruptcy procedures;
2. Performing any acts to clear or pay amounts borrowed from the banks by enterprises or cooperatives.

Article 60. Obligations of staff members and laborers

1. Immediately after receiving the decisions on opening of bankruptcy procedures, the enterprises or cooperatives which fall into the state of bankruptcy must publicly notify such to all their staff members and laborers.
2. As from the date of being notified, the entire staff members and laborers shall be obliged to protect the properties of the enterprises or cooperatives and must not perform any acts with a view to concealing, dispersing or transferring the properties of the enterprises or cooperatives.

Chapter V

CREDITORS' CONFERENCES

Article 61. Convening the creditors' conferences

1. Where the inventory of properties of the enterprises or cooperatives which fall into the state of bankruptcy is completed before the date of completing the lists of creditors, within thirty days as from the date of completing the lists of creditors, the judges must convene the creditors' conferences; if the inventory of the properties of the enterprises or cooperatives is completed after the date of completing the lists of creditors, such time limit shall be counted from the date of completing the inventory of the properties of the enterprises or cooperatives.
2. The subsequent conferences of creditors may be convened by judges on any working day in the course of carrying out the bankruptcy procedures at the requests of the property-managing and - liquidating teams or of the creditors representing at least one-third of the total unsecured

debts.

3. The creditors' conference- convening papers must be sent to the persons entitled to participate in the creditors' conferences and the persons obliged to participate in the creditors' conferences, defined in Articles 62 and 63 of this Law, at least fifteen days before the date the conference opens. Enclosed with such papers must be the agenda and contents of the conferences as well as other documents, if any.

4. The creditors' conferences shall be presided over by the judges in charge of carrying out the bankruptcy procedures.

Article 62. Right to participate in the creditors' conferences

The following persons are entitled to participate in creditors' conferences:

1. The creditors included in the lists of creditors. Creditors may authorize other persons in writing to participate in creditors' conferences and the authorized persons shall have the rights and obligations like the creditors;

2. The laborers' representatives, the trade union representatives, who are authorized by the laborers. In this case, the laborers' representatives and the trade union representatives shall have the rights and obligations like creditors;

3. The guarantors who have already repaid debts for the enterprises or cooperatives which fall into the state of bankruptcy. In this case, they become unguaranteed creditors.

Article 63. Obligations to participate in creditors' conferences

1. The applicants for opening of bankruptcy procedures, defined in Articles 15, 16, 17 and 18 of this Law, have the obligations to participate in creditors' conferences; in cases where they are unable to participate, they must authorize other persons in writing to participate in the creditors' conferences. The authorized persons shall have the rights and obligations like the authorizing persons if they participate in the creditors' conferences; for private enterprises whose owners have died, the lawful heirs of those enterprise owners shall participate in the creditors' conferences.

2. Where the enterprises or cooperatives falling into the state of bankruptcy have no representatives defined in Clause 1 of this Article to participate in the creditors' conferences, the judges in charge of carrying out the bankruptcy procedures shall appoint persons to represent those enterprises or cooperatives in participating in the creditors' conferences.

Article 64. Contents of the first conference of creditors

1. The first conference of creditors shall cover the following contents:

a) The property-managing and-liquidating team leader shall brief the creditors' conference on the

business situation and the financial situation of the enterprise or cooperative which falls into the state of bankruptcy; the results of property inventory, the list of creditors, the list of debtors and other contents deemed necessary;

b) The owner or lawful representative of the enterprise or cooperative presents ideas on the contents briefed to the conference by the property-managing and-liquidating team leader, propose plans and solutions to reorganize the business operation, the capability and time limit for debt repayment;

c) The creditors' conference shall discuss the contents informed by the property-managing and-liquidating team leader and ideas presented by the enterprise owner or the lawful representative of the enterprise or cooperative;

d) The creditors' conference adopts the resolution. The resolution must be made in writing and adopted by more than half of the unguaranteed creditors present at the conference, who represent two-thirds or more of the total unsecured debt amount. The resolution of the creditors' conference is binding on all creditors;

e) Where the creditors' conference deems it necessary to replace the representatives of creditors in the composition of the property-managing and-liquidating team, it shall elect other representatives for replacement;

f) Proposing the judge to issue a decision to appoint person to manage and run the business activities of the enterprise or cooperative which falls into the state of bankruptcy.

2. In case of necessity to hold a subsequent conference of creditors, the agenda and contents thereof shall be decided by the judge in charge of carrying out the bankruptcy procedures at the proposals of the persons defined in Clause 2, Article 61 of this Law.

Article 65. Conditions for creditors' conferences to be valid

The creditors' conferences shall be valid only when the following conditions are fully met:

1. They are participated by more than half of the unguaranteed creditors representing two-thirds or more of the total unsecured debt amounts;

2. They are participated by the persons with obligation to participate in the creditors' conferences, defined in Article 63 of this Law.

Article 66. Postponing creditors' conferences

1. The creditors' conference can be postponed once in one of the following cases:

a) It is participated in by not more than half of the unguaranteed creditors representing two-thirds or more of the total unsecured debts;

b) It is so proposed through voting by more than half of the unguaranteed creditors present at the creditors' conference;

c) The persons with obligation to participate in the creditors' conference defined in Article 63 of this Law are absent for plausible reasons.

2. Where the judge issues decision to postpone the creditors' conference, within thirty days as from the date of issuing such decision, the judge must reconvene the creditors' conference.

Article 67. Suspension of carrying out the bankruptcy procedures when participants in creditors' conferences are absent

The judges shall issue decisions to suspend the bankruptcy procedures in the following cases:

1. Where after the creditors' conference is postponed once the applicants for opening of bankruptcy procedures, defined in Articles 13 and 14 of this Law do not participate in the reconvened conference of creditors;

2. Where only the persons defined in Articles 15, 16, 17 and 18 of this Law file the applications for opening of bankruptcy procedures while the persons with obligation to participate in the creditors's conference as defined in Article 63 of this Law do not come to participate in the creditors' conference without plausible reasons;

3. Where the applicants for opening of bankruptcy procedures withdraw their applications; if the persons defined in Articles 13, 14, 15, 16, 17 and 18 of this Law file the applications for opening of bankruptcy procedures while only one or some of them withdraw the applications, the courts still proceeds with the bankruptcy procedures.

Chapter VI

RESTORATION PROCEDURES, LIQUIDATION PROCEDURES

Section 1

BUSINESS OPERATION RESTORATION PROCEDURES

Article 68. Conditions for application of business operation restoration procedures

1. The judges shall issue decisions to apply the business operation restoration procedures after the first conferences of creditors adopt resolutions approving solutions to reorganize business operations, plans on repayment of debts to creditors and request the enterprises or cooperatives to work out plans on business operation restoration.

2. Within thirty days as from the date the first conferences of creditors adopt the resolutions, the enterprises or cooperatives which fall into the state of bankruptcy must work out plans to restore their business operations and submit them to the courts; if deeming it necessary to have more

time therefor, they must send their written requests to the judges for extension. The extension duration shall not exceed thirty days.

Within the above-said time limit, any creditors or persons who undertake the task of restoring the business operations of the enterprises or cooperatives shall all have the right to draft plans on business operation restoration for the enterprises or cooperatives and submit them to the courts.

Article 69. Contents of plans on business operation restoration

1. Plans on restoration of business operations of enterprises or cooperatives which fall into the state of bankruptcy must clearly state the necessary measures to restore business operations; conditions; time and plans for debt repayment.

2. The necessary measures to restore business operations shall include:

a) Mobilizing new capital;

b) Changing goods of production and/business;

c) Renewing production technologies;

d) Reorganizing the managerial apparatus; merging or dividing production sections in order to raise productivity and production quality;

e) Reselling shares to creditors;

f) Selling or leasing unnecessary properties;

g) Other measures not contrary to law.

3. Before commencing or at the creditors' conferences, the business operation restoration plans can be amended and/or supplemented under agreement among the parties.

Article 70. Considering business operation restoration plans before they are presented at creditors' conferences

Within fifteen days as from the date of receiving the business operation restoration plans, the judges must consider them in order to make one of the following decisions:

1. To present the plans at creditors' conferences for consideration and decision;

2. To request the amendment and/or supplementation of the business operation restoration plans if deeming that such plans fail to ensure the contents prescribed in Article 69 of this Law.

Article 71. Consideration and adoption of plans on business operation restoration

1. Within ten days as from the date of deciding to present the plans on restoration of business operation of the enterprises or cooperatives which fall into the state of bankruptcy before creditors' conferences, the judges must convene the creditors' conference to consider and adopt the restoration plans.

2. The conferences consider and discuss the business operation restoration plans.

The resolutions on plans for restoration of business operations of enterprises or cooperatives shall be adopted when they are voted for by more than half of the present unguaranteed creditors representing two-thirds or more of the total unsecured debts.

Article 72. Recognition of resolutions on business operation restoration plans

1. The judges shall issue decisions to recognize the creditors' conferences' resolutions on plans for restoration of business operations of the enterprises or cooperatives which fall into the state of bankruptcy. These resolutions are binding on all parties concerned.

2. The courts must send the decisions to recognize the creditors' conference's resolutions on business operation restoration plans to the enterprises or cooperatives which fall into the state of bankruptcy and the creditors within seven days as from the date of issuing the decisions.

Article 73. Supervising the implementation of business operation restoration plans

1. After the judges issue decisions to recognize the creditors' conferences' resolutions on plans for restoration of business operations of the enterprises or cooperatives which fall into the state of bankruptcy, the property-managing and-liquidating teams shall dissolve.

2. Once every six months, enterprises and cooperatives must send to the courts their reports on the implementation of business operation restoration plans.

3. The creditors are obliged to supervise the implementation of plans on restoration of business operations of the enterprises or cooperatives.

Article 74. Time limit for implementation of plans on business operation restoration

The maximum time limit for implementation of a plan on restoration of business operation of an enterprise or cooperative falling into the state of bankruptcy is three years as from the last day of publishing in newspapers the court's decision to recognize the creditors' conference's resolution on plan for restoration of business operation of the enterprise or cooperative.

Article 75. Amending, supplementing plans on business operation restoration

1. In the course of implementing business operation restoration plans, creditors and enterprises or cooperatives shall have the right to reach agreements on amendment and/or supplementation of business operation restoration plans.

2. The agreement on amendment and/or supplementation of plans for restoration of business operations of enterprises or cooperatives shall be approved when it is reached by more than half of the number of unguaranteed creditors representing two-thirds or more of the total unsecured debts.

3. The judges shall issue decisions to recognize the agreement between the parties and send such decisions to the enterprises or cooperatives which fall into the state of bankruptcy as well as creditors within seven days as from the date of issuing the decisions.

Article 76. Suspension of business operation restoration procedures

1. The judges shall issue decisions to suspend the procedures for restoration of business operations of the enterprises or cooperatives which fall into the state of bankruptcy in one of the following cases:

- a) The enterprises or cooperatives have fulfilled the plans on business operation restoration;
- b) It is so agreed upon through voting by more than half of the unguaranteed creditors representing two-thirds or more of the total outstanding unsecured debts.

2. The courts must send and publicize the decisions to suspend the procedures for restoration of business operation of enterprises or cooperatives as provided for in Article 29 of this Law.

Article 77. Legal consequences of the suspension of business operation restoration procedures

1. When the judges issue decisions to suspend the procedures for restoration of business operation of the enterprises or cooperatives which fall into the state of bankruptcy, such enterprises or cooperatives shall be regarded as no longer falling into the state of bankruptcy.

2. Where the civil judgment execution or case settlement is suspended under the provisions in Article 57 of this Law, immediately after the issuance of the decisions to suspend the procedures for restoration of business operations of the enterprises or cooperatives which fall into the state of bankruptcy, the civil judgment execution or the case settlement shall resume. The courts which issue decisions to suspend the restoration procedures must return the case dossiers to the competent courts for settlement of cases according to law provisions.

Section 2

PROPERTY LIQUIDATION PROCEDURES

Article 78. Decision to open property liquidation procedures in special cases

Where enterprises which have conducted business operation at a loss, have enjoyed special measures applied by the State to restore their business operation but still cannot restore their business operation and cannot repay their due debts at the creditors' requests, the courts shall

issue decisions to open the procedures for liquidation of the enterprises' properties without having to convene the creditors' conferences to consider the application of restoration procedures.

Article 79. Decision to open property liquidation procedures when the creditors' conferences fail

The judges shall issue decisions to open property liquidation procedures when the creditors' conferences fail in the following cases:

1. Where the owners of enterprises or lawful representatives of enterprises or cooperatives fail to participate in the creditors' conferences without plausible reasons or where after the creditors' conferences are postponed once and the applicants for opening of the property liquidation procedures fall into the cases prescribed in Articles 13 and 14 of this Law;
2. Where there are not enough creditors defined in Clause 1, Article 65 of this Law to participate in the creditors' conferences after the creditors' conferences were postponed once if the applicants for opening of the bankruptcy procedures fall into the cases prescribed in Articles 15, 16, 17 and 18 of this Law.

Article 80. Decision to open the property liquidation procedures after the adoption of the resolutions of the first conferences of creditors

After the first conference of creditors adopts the resolution agreeing with the proposed solutions to reorganize business operation, plans on debt repayment to creditors and requests the enterprises or cooperatives to work out plans to restore their business operation, the courts shall decide to open procedures for liquidation of properties of the enterprises or cooperatives in one of the following cases:

1. The enterprises or cooperatives cannot draw up plans for business operation restoration within the time limit prescribed in Clause 1, Article 68 of this Law;
2. The creditors' conferences fail to adopt plans on restoration of business operation of enterprises or cooperatives;
3. The enterprises or cooperatives have implemented improperly or fail to implement the business operation restoration plans, except otherwise agreed upon by the involved parties.

Article 81. Contents of decisions on opening of property liquidation procedures

1. The decision to open the property liquidation procedures prescribed in Articles 78, 79 and 80 of this Law must contain the following principal contents:

- a) The day, month, year of issuing the decision;
- b) The name of the court, the full name of the judge in charge of carrying out the bankruptcy

procedures;

c) The name and address of the enterprise or cooperative subject to the application of property liquidation procedures;

d) The grounds of application of property liquidation procedures;

e) The plan on division of the properties of the enterprise or cooperative according to the principles prescribed in Article 37 of this Law;

f) The right to complain and protest and the time limit for lodging complaints and protests.

2. The decisions on opening of procedures for liquidation of the properties of enterprises or cooperatives which fall into the state of bankruptcy must be dispatched and publicized by courts according to the provisions in Article 29 of this Law.

Article 82. Activities of enterprises, cooperatives in the course of property liquidation

In the course of executing decisions on opening of property liquidation procedures, at the proposals of the property-managing and-liquidating teams, the judges may issue decisions permitting the enterprises or cooperatives to conduct a number of activities necessary for the property liquidation or for the increase of the properties of such enterprises or cooperatives.

Article 83. Complaints about, protests against, decisions on opening of property liquidation procedures

1. The enterprises and cooperatives which fall into the state of bankruptcy and creditors may complain about, and the people's procuracies of the same level may protest against, decisions on opening of property liquidation procedures.

2. Persons owing debts to enterprises or cooperatives may complain about the sections of decisions on opening procedures for liquidation of the properties of the enterprises or cooperatives, which are related to their respective debt repayment obligations.

3. The time limit for lodging complaints or protests shall be twenty days counting from the last day of publishing the decisions on opening of property liquidation procedures in newspapers.

Within five days as from the date the time limit for lodging complaints or protests expires, the courts which have issued decisions on opening of procedures for liquidation of properties of enterprises or cooperatives must send the bankruptcy dossiers enclosed with the written complaints, protest decisions to the immediate superior courts for considering and settling the complaints about, or protests against, decisions on opening of property liquidation procedures.

Article 84. Settlement of complaints about, protests against, decisions on opening of property liquidation procedures

1. Immediately after receiving the bankruptcy dossiers enclosed with the written complaints or protest decisions, the chief judges of the immediate superior courts shall each appoint a three judge- team to consider and settle the complaints about, or protests against, decisions on opening of property liquidation procedures.

2. Within sixty days as from the date of receiving the bankruptcy dossiers, the judges' teams must consider and settle complaints about, or protests against, decisions on opening of property liquidation procedures. The judges' teams may issue one of the following decisions:

a) To reject the complaints or protests and retain the subordinate court's decisions on opening of property liquidation procedures;

b) To amend the subordinate court's decisions on opening of property liquidation procedures;

c) To cancel the subordinate court's decisions on opening of property liquidation procedures and hand the bankruptcy dossiers to the subordinate court for continuing with the restoration procedures as provided for by this Law.

3. The immediate superior courts' decisions on settlement of complaints or protests shall be the final ones and take legal effect after the issuance thereof.

Article 85. Suspension of property liquidation procedures

The judges shall issue decisions to suspend the property liquidation procedures in the following cases:

1. The enterprises or cooperatives no longer have properties for implementation of the property division plans;

2. The property division plans have been fulfilled.

Chapter VII

DECLARING BANKRUPTCY OF ENTERPRISES, COOPERATIVES

Article 86. Decisions to declare bankruptcy of enterprises or cooperatives

The judges issues decisions to declare bankruptcy of enterprises, cooperatives simultaneously with the decisions to suspend the property liquidation procedures.

Article 87. Decisions to declare bankruptcy of enterprises, cooperatives in special cases

1. Within thirty days as from the date the court-set time limit for advancing the bankruptcy charges expires, if the enterprise owners or the lawful representatives of enterprises or cooperatives, who have filed the applications for opening of bankruptcy procedures, have no more money or other properties for payment of bankruptcy charge advances, the courts shall

issue decisions to declare that the enterprises or cooperatives are bankrupt.

2. After receiving the applications for opening of bankruptcy procedures as well as documents and papers sent by the concerned parties, the courts shall issue decisions to declare bankruptcy of enterprises or cooperatives, if the enterprises or cooperatives falling into the state of bankruptcy have no more properties or have properties but not enough for payment of bankruptcy charges.

Article 88. Contents of decisions to declare enterprises, cooperatives to be bankrupt

The decisions to declare enterprises or cooperatives to be bankrupt must contain the following principal details:

1. The day, month, year of issuing the decision;
2. The name of the court; full name of the judge in charge of carrying out the bankruptcy procedures;
3. The name and address of the enterprise, cooperative declared to be bankrupt;
4. The grounds for bankruptcy declaration;
5. The right to lodge complaints, protests and time limit for settlement thereof;
6. The ban from undertaking posts after the enterprise, cooperative is declared bankrupt as provided for in Article 94 of this Law.

Article 89. Notification of decisions to declare bankruptcy of enterprises, cooperatives

1. Within fifteen days as from the date of issuing decisions to declare bankruptcy of enterprises or cooperatives, the courts must dispatch and publicize such decisions as provided for in Article 29 of this Law.
2. Within ten days as from the date the decisions to declare bankruptcy of enterprises, cooperatives take effect, the courts must send such decisions to the business registration offices for deleting the names of such enterprises or cooperatives from business registers; in cases where the Supreme People's Court issues decisions on settlement of complaints or protests as provided for in Article 92 of this Law, such time limit may be longer but must not exceed twenty five days.

Article 90. Property obligations upon the issuance of decisions to declare bankruptcy of enterprises, cooperatives

1. The decisions to declare bankruptcy of enterprises, cooperatives, provided for in Articles 86 and 87 of this Law do not immunize the property obligations of owners of private enterprises or partnership members towards creditors whose debts have not yet been repaid, except otherwise

agreed by the parties or provided for by law.

2. The property obligations arising after the issuance of the decisions to declare bankruptcy of enterprises or cooperatives shall be settled according to law provisions on civil judgment execution and other relevant law provisions.

Article 91. Complaints about, protests against, decisions to declare bankruptcy of enterprises, cooperatives

1. The persons defined in Article 29 of this Law may complain about, and the people's procuracies of the same level may protest against, decisions to declare bankruptcy of enterprises or cooperatives.

2. The time limit for lodging complaints or protests shall be twenty days as from the last day of publishing the decisions to declare bankruptcy of enterprises, cooperatives in newspapers.

Within five days as from the date the time limit for lodging complaints or protests expires, the courts which have issued decisions to declare bankruptcy of enterprises or cooperatives must send the bankruptcy dossiers enclosed with the written complaints or protest decisions to their immediate superior courts for considering and settling the complaints about, or protests against, decisions to declare bankruptcy of enterprises, cooperatives.

3. The decisions to declare bankruptcy of enterprises or cooperatives, if not being complained about or protested against, shall take legal effect as from the date the time limit for lodging complaints, protests as prescribed in Clause 2 of this Article expires.

Article 92. Settlement of complaints about, protests against, decisions to declare bankruptcy of enterprises, cooperatives

1. Immediately after receiving the bankruptcy dossiers enclosed with written complaints or protest decisions, the chief judges of the immediate superior courts shall each appoint a three-judge team to consider and settle the complaints about or protests against, decisions to declare bankruptcy of enterprises or cooperatives.

2. Within forty five days as from the date of receiving the bankruptcy dossiers enclosed with the written complaints or protest decisions, the judge teams must consider and settle the complaints about, or protests against, decisions to declare bankruptcy of enterprises or cooperatives. The judges' teams may issue one of the following decisions:

a) To reject the complaints or protests and retain the subordinate court's decisions to declare bankruptcy of enterprises or cooperatives;

b) To cancel the subordinate court's decisions to declare bankruptcy of enterprises or cooperatives and hand the bankruptcy dossiers to the subordinate courts for continuing with the bankruptcy procedures.

3. The immediate superior court's decisions on settlement of complaints or protests shall be the final ones and take legal effect as from the date of issuance thereof.

Chapter VIII

HANDLING OF VIOLATIONS

Article 93. Liabilities for law violations in the course of carrying out the bankruptcy procedures

1. Those who commit acts of law violation in the course of carrying out the bankruptcy procedures shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability; if causing damage, they must pay compensations therefore according to law provisions.

2. The Government shall prescribe the administrative sanctions and the sanctioning levels for acts of administrative violation in the course of carrying out the bankruptcy procedures.

Article 94. Ban from holding posts after the enterprises, cooperatives are declared bankrupt

1. The directors, general directors, chairmen and members of the Managing Boards of companies, corporations with 100% State capital, which are declared bankrupt, must not be appointed to hold such posts in any State enterprises, as from the date such State companies or corporations are declared bankrupt.

The persons assigned to represent the contributed capital portions of the State in other enterprises which are declared bankrupt must not be appointed to hold managerial positions in any enterprises having the State capital.

2. Owners of private enterprises, partnership members, directors (general directors), chairmen and members of the Managing Boards, Members' Councils of enterprises, managers and members of the managerial boards of the cooperatives, which are declared bankrupt, shall not be allowed to set up enterprises or cooperatives, must not work as managers of enterprises or cooperatives for one to three years as from the date the enterprises or cooperatives are declared bankrupt.

3. The provisions in Clauses 1 and 2 of this Article shall not apply in cases where enterprises or cooperatives are declared bankrupt for *force majeure* reasons.

Chapter IX

IMPLEMENTATION PROVISIONS

Article 95. Implementation effect

1. This Law takes effect as from October 15, 2004 and replaces the December 30, 1993 Law on Bankruptcy of Enterprises.
2. The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within their respective tasks and powers, detail and guide the implementation of this Law.

This Law was passed on June 15, 2004 by the 11th National Assembly of the Socialist Republic of Vietnam, at its 5th session.

**THE NATIONAL
ASSEMBLY
CHAIRMAN**
(signed)
Nguyen Van An