

Bankruptcy Law of  
The People's Republic of China (**draft**)

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## Chapter I General Provisions

Article 1: This Law is formulated in order to fairly try bankruptcy cases, protect the legitimate rights and interests of creditors and debtor, maintain the economic order and promote the development of socialist market economy.

Article 2: Bankruptcy cases that are tried by the people's courts shall apply to the reorganization, conciliation or bankruptcy liquidation procedures provided for in this Law.

Article 3: This Law applies to the following civil subjects:

- (1) enterprise legal entities;
- (2) partnership enterprise and its partners;
- (3) individual proprietorship enterprise and its investor; and
- (4) other profit-making organizations which are established in accordance with law.

Where the enterprise legal entity has been dissolved but has not been liquidated or has not been liquidated completely, it is deemed to exist within the scope of the provisions in this Law.

The State Council is authorized to stipulate regulations concerning

special issues of bankruptcy conducted by state-owned enterprises that are established before the Company Law of the People's Republic of China takes effect.

Article 4: Wherever a debtor is unable to pay off the debts due, its debts shall be liquidated in accordance with the procedures prescribed in this Law.

A debtor who ceases to pay off debts due shall be presumed unable to pay.

Article 5: Bankruptcy cases shall be under the jurisdiction of the intermediate people's court or above in the place of the debtor's domicile.

Article 6: The ruling made by the people's court according to the provisions in this Law shall enter into force from the date of making the ruling.

No appeal shall be brought up against the ruling made by the people's court according to the provisions in this Law except otherwise provided for in this Law.

The ruling made by the people's court in accordance with the provisions in this Law shall be made public except otherwise provided for in this Law.

Article 7: The public announcement prescribed in this Law shall be publicized in nationwide media designated by the Supreme People's Court especially for publicizing announcements and shall be put up in the bulletin board of the people's court that accepts the case.

The public announcement shall become effective from the next day of the last date of the publication of the announcement.

Article 8: The bankruptcy procedures initiated according to this Law shall be effective in regards to the debtor's property that is outside the territory of the People's Republic of China.

Where the interested parties abroad apply for the execution of the debtor's property that is inside the territory of the People's Republic of China during the bankruptcy procedures initiated outside the territory of the

People's Republic of China, the people's court may make a ruling of approval.

The people's court shall not make a ruling of approval under any of the following circumstances:

- (1) if there are no relevant treaties or reciprocity relationship between the country and the People's Republic of China;
- (2) if the application violates the public interests of the People's Republic of China;
- (3) if there is a possibility that the approval of the application impair the lawful interests or rights of the creditors of the People's Republic of China;
- (4) if there are other factors that the people's court thinks shall be taken into consideration.

Article 9: Where this Law has not stipulated the procedures for bankruptcy cases, the relevant provisions of Civil Procedures Law shall be applied.

Article 10: The people's court shall safeguard the lawful rights and interests of the employees of the bankrupt enterprises in accordance with law when trying bankruptcy cases.

The people's government of the place where the bankrupt enterprise is located shall properly arrange the settlement and life guarantee of the employees of the bankrupt enterprise.

## Chapter II: Application for and acceptance

### Section 1: Application

Article 11: Where the situations stipulated in Article 4 of this Law occur to the debtor, the debtor or the creditors may file an application for bankruptcy with the people's court.

Where the situation stipulated in Paragraph 2, Article 3 of this Law occurs and the debtor's property is not sufficient to pay off the debts, the person who is responsible for liquidation shall file an application for bankruptcy with the people's court.

Article 12: The applicant shall submit an application form for bankruptcy and relevant evidence to the people's court when filing an application with the people's court.

The application form for bankruptcy shall contain:

- (1) the basic situations of the applicant and the party against whom an application is filed;
- (2) the purpose of the application;
- (3) the amount of the credit, whether there is a property guarantee or not, and the grounds and time period of the credit;
- (4) the reasons and grounds of the application;
- (5) other matters that the people's court thinks shall be contained.

Where an application is filed by the debtor, the debtor shall submit a specification on its financial status, a detailed list of debts, a detailed list of credits and relevant financial reports to the people's court.

Article 13: The applicant, who has filed an application for bankruptcy, may request to withdraw the application before the application is accepted by the people's court.

## Section 2: Acceptance

Article 14: The people's court shall decide whether or not to accept the application within fifteen days after receiving the application for bankruptcy. Where the people's court has decided to accept an application, it shall make a ruling on it.

The people's court shall notify the debtor within five days after it makes a ruling to accept the application for bankruptcy.

Where an application is filed by the creditor, the debtor shall submit a

specification on its financial status, a detailed list of debts, a detailed list of credits and relevant financial reports to the people's court within fifteen days after it receives the notification issued by the people's court.

Article 15: Where the people's court has decided not to accept an application for bankruptcy, it shall make a ruling on it and explain the reasons.

The people's court shall notify the applicant of the ruling prescribed in the preceding paragraph within five days after making the ruling, but a public announcement is not necessary.

Where an applicant refuses to accept as final the ruling made by the people's court that the people's court will not accept the application for bankruptcy, he can file an appeal with the superior people's court within fifteen days after the delivery of the ruling.

Article 16: The people's court shall designate an administrator when accepting an application for bankruptcy.

Article 17: The people's court shall constitute a collegial panel to try the case after accepting an application for bankruptcy. However, where the amount of debtor's property is comparatively small, the debt and credit are clear, and the number of creditors is small in the bankruptcy case, the people's court may not constitute a collegial panel to try it.

Article 18: The people's court shall inform the creditors who have definite addresses of the ruling within fifteen days after making the ruling if it accepts the application for bankruptcy and shall make a public announcement.

The notification and the public announcement shall contain:

- (1) the main body of the ruling on the acceptance of the bankruptcy case made by the people's court and the time of the acceptance of the bankruptcy case;
- (2) the time limit and special points for attention of the report for the credit;

- (3) the name of the administrator and the address of the place where the administrator handles business;
- (4) the debtor's debtor shall pay off its debts to the administrator and the holder of the debtor's property shall deliver the property to the administrator;
- (5) the date and place of the first meeting convened among the creditors; and
- (6) Other matters that the people's court thinks shall announce.

Article 19: Any preserving measures and other execution procedures concerning the debtor's property shall be suspended after the people's court accepts the bankruptcy case unless this Law provides otherwise.

Article 20: The civil litigation concerning the property and the property rights of the debtor that has started but has not yet ended shall be suspended after the people's court accepts the bankruptcy case; the litigation shall continue after the administrator takes over the debtor's property.

Article 21: The debtor and relevant persons shall bear the following obligations from the date when the people's court accepts the bankruptcy case:

- (1) appropriately keeping all the property, accounting books, documents, data, seals and other articles that are occupied, used and managed by them;
- (2) working according to the requirements of the people's court, the administrator and the reorganization executor and answering the inquiries with honest;
- (3) attending the creditors' meeting as nonvoting delegates and answering the creditors' inquiries with honest;
- (4) not leaving the place of domicile without the permission of the people's court.

The relevant persons referred to in the preceding paragraph include the legal representatives of the enterprise entities, partners and persons in charge of the partnership enterprises, investors and persons in charge of individual

proprietorship enterprises or persons in charge of other profit-making organizations; if necessary the relevant persons referred to in the preceding paragraph may also include the financial administrator and key business personnel of the enterprises with the authorization of the people's court.

Article 22: After the people's court accepts the bankruptcy case, it shall be invalid for the debtor to pay off debts to a specific creditor.

### Chapter III: Property Management

#### Section 1: The Debtor's Property

Article 23: All the property and property rights that belong to the debtor at the time when the bankruptcy case is accepted and the property and property rights the debtor obtains after the acceptance of the bankruptcy case but before the termination of the bankruptcy procedures, shall belong to the scope of debtor's property.

Where laws stipulate special provisions on the debtor's property, the special provisions shall apply.

Article 24: Where the debtor is a partner of a partnership enterprise or an investor of an individual proprietorship enterprise, the daily necessities and necessary living expenses for the debtor and his dependents can be taken back upon the agreement of the administrator after the acceptance of the bankruptcy case.

Article 25: The administrator shall take over all of the debtor's property from the date appointed by the people's court.

After the people's court accepts the bankruptcy case, the debtor's debtor shall pay off its debts to the administrator and the holder of the debtor's property shall deliver the property to the administrator.

Where the debtor's debtor pay off its debt to the administrator or the holder of the debtor's property delivers the property to the administrator in

violation of the provisions of the preceding paragraph, the debtor or the property holder shall not be exempted from the obligations of continuing to pay off the debts or delivering the property.

Article 26: Where the administrator, the debtor or other related parties have disputes over the attribution of the property stipulated in the preceding paragraph, they may institute a lawsuit with the people's court.

## Section 2: The Administrator

Article 27: The administrator may be lawyers, certified public accountants or relevant social intermediary institutions. The administrator shall have good reputation, necessary professional knowledge and have obtained the practice qualification through examination. The persons or institutions shall not be the administrator as following:

- (1) if they have been criminally punished or have other bad social records;
- (2) if it is less than five years since a notary is disqualified on the ground of violating laws;
- (3) if it is less than five years since a registered accountant is revoked of his license for violating professional provisions;
- (4) if it is less than five years since a lawyer is revoked of his license for violating professional provisions;
- (5) if they are interested parties with this bankruptcy case;
- (6) if they are thought by the people's court inappropriate to be an administrator.

The State Council shall stipulate separately the qualifications of and examining methods for the administrator.

Article 28: The administrator shall take over daily management of the debtor's property and business affairs from the date of being designated as the administrator and shall be responsible for and report his work to the people's court.

The performance of the functions by the administrator shall be

supervised by the creditors' meeting. The administrator shall attend the creditors' meeting as nonvoting delegate, report the performance of his functions to the creditors' meeting and answer inquiries.

Article 29: The administrator shall perform the following functions from the date of being designated as the administrator:

- (1) taking over all of the debtor's property, accounting books, documents, data, seals and other articles;
- (2) investigating into the debtor's property status and civil activities, including salaries owed to laborers, owed costs for social security and tax owed by the debtor;
- (3) making a report on the investigation into the financial status;
- (4) determining the daily expenses and other necessary expenses for the debtor;
- (5) determining whether or not the debtor shall continue to operate business before the convention of the first creditors' meeting;
- (6) managing and handling the debtor's property;
- (7) accepting the property delivery by a third party to the debtor;
- (8) determining the managing affairs inside the debtor's business.
- (9) employing necessary managing personnel, professional technicians and other staff;
- (10) calling for the convention of the creditors' meeting;
- (11) participating in a lawsuit or an arbitration concerning the disputes over the debtor's property on behalf of the debtor;
- (12) taking charge of the appraisal of the bankrupt property and distribution of the bankrupt property;
- (13) other rights that the people's court thinks shall be exercised by the administrator.

Article 30: Before the convention of the first creditors' meeting, the administrator shall obtain permission to act from the people's court if his action corresponds to one of the activities that are stipulated in Article 64 of this Law.

Article 31: The payment of the administrator shall be decided by the people's court. The administrator's payment and the expenses for performing his duties shall be deducted from the debtor's property.

Where the administrator brings losses to the debtor's property on purpose or by negligence when performing duties, he shall be liable for the compensation.

Article 32: The administrator shall not resign without the authorization of the people's court after accepting the appointment of the people's court as the administrator.

Where the administrator is not competent at the task, or has misconduct or other unlawful practices, the people's court may replace him upon the application of the creditors' conference or other interested parties or by ex officio.

### Section 3: The Rights of Rescission and Recovery

Article 33: Within one year before the people's court accepts the bankruptcy case, the administrator is entitled to request the people's court to rescind the following activities taken by the debtor concerning the debtor's property and property rights:

- (1) transferring property or property rights free of charge;
- (2) transferring property with obviously unreasonable low prices;
- (3) providing property security for the debts that originally have no property security;
- (4) paying off in advance the debt undue;
- (5) giving up credits;
- (6) other activities that impair the interests of the creditors.

Article 34: Within six months before the people's court accepts the bankruptcy case and upon full knowledge of his inability to pay off due debts, where the debtor still pays off debts to specific creditors, which impairs the interests of other creditors, the administrator is entitled to request the people's court to rescind the repayment unless the specific repayment benefits the

bankrupt property.

Article 35: The following activities taken by the debtor concerning the property and property rights of the debtor shall be invalid whenever they occur:

- (1) hiding, illegally distributing property;
- (2) fabricating debts or recognizing unreal debts.

Article 36: The administrator is entitled to recover the debtor's property or property rights that are obtained through activities stipulated in Article 33, Article 34 or Article 35 of this Law.

Article 37: Where the investor of the bankrupt enterprise has not yet fulfilled his investing obligation after the people's court accepts the bankruptcy case, the administrator shall request the investor to pay his commitment capital regardless the time limit of the payment.

Article 38: The administrator shall recover the unusual income that the directors, managers and other principals of the bankrupt enterprise have obtained by taking advantages of their authority and recover the enterprise property that they encroach in the same manner.

#### Section 4: Expenses for Bankruptcy and Debts of Common Benefits

Article 39: The following expenditures generated after the people's court accepts the bankruptcy case are expenses for bankruptcy:

- (1) lawsuit expenditures of the bankruptcy case;
- (2) expenditures for the management, appraisal and distribution of the debtor's property; and
- (3) payment for the administrator, expenditures for performing duties and for employing staff.

Article 40: The following debts generated after the people's court accepts the bankruptcy case are debts of common benefits:

- (1) the debt that is generated on the administrator's request to perform bilateral contracts;
- (2) the debt that is generated from the voluntary service for the debtor's property;
- (3) the debt that is generated from the unjust enrichment of the debtor's property;
- (4) the salaries and social security paid in order to continue the debtor's business operation after the people's court accepts the bankruptcy case,;
- (5) the debt that is generated from the administrator or relevant persons in their performing of duties or the debt that is generated from the damages to other people caused by the property of the bankrupt enterprise.

Article 41: Expenses for bankruptcy and debts of common benefit shall be paid off at any time with the debtor's property.

Where the debtor's property is insufficient to pay off all of the costs for bankruptcy and debts of common benefit, the expenses for bankruptcy shall be the first to be paid off.

Where the debtor's property is insufficient to pay of all of the expenses for bankruptcy and debts of common benefit, the expenses and debts shall be paid off in proportion.

Where the debtor's property is insufficient to pay off the expenses for bankruptcy, the administrator shall apply to the people's court for terminating the bankruptcy case. The people's court shall make a ruling within ten days after receiving the application of the administrator for terminating the bankruptcy case.

#### Chapter IV: Declaration of Credits

Article 42: The credits claimed from the debtor before the people's court accepts the bankruptcy case, shall be exercised in accordance with the procedures prescribed in this Law.

Article 43: The people's court shall confirm the time limits of the

creditors to declare credits after accepting the bankruptcy case. The time limits of declaring the credit shall not be less than 30 days at least and not exceed 90 days at most.

The time limits of declaring the credit shall be counted from the date when the public announcement that the people's court makes the ruling on acceptance of the bankruptcy case becomes effective.

Article 44: The undue credit shall be deemed as due when the bankruptcy case is accepted.

Where a credit is not due until the acceptance of the bankruptcy case, interests shall cease to be counted into a credit with interests from the date of the acceptance of the bankruptcy case, and legal interests shall be deducted from a credit without interests from the date of the acceptance of the bankruptcy case to the expiration of the credit unless the credit is a loan credit without interests.

Article 45: A conditional credit shall be declared with the full amount of the credit.

Article 46: After the people's court accepts the bankruptcy case, the creditors shall declare their credits to the administrator within the time limits of declaring credits regulated by the people's court.

Article 47: The creditors shall explain in written the amount of the credit and whether there are property collateral or not and submit relevant evidence when declaring the credits. Where the credit for declaration is a joint credit, explanations shall be provided.

Article 48: Where the creditor is unable to declare his credit in time on the grounds of irresistible causes or other just causes, he may apply for an extension of the time limit of the declaration for credits to the people's court.

Where the creditor does not declare his credit within the time limit of declaring credits regulated by the people's court, he may complementarily declare his credit before the final distribution of the bankrupt property. But

no complementary distribution shall be made if the property has been distributed before. The creditor of complementary declaration shall pay the costs for examining and confirming the complementary declaration.

Where the creditor has not declared his credit within the time limit of declaring credits regulated by the people's court, he shall not exercise his right in accordance with the procedures stipulated in this Law with the exception of the conditions prescribed in the preceding two paragraphs.

Article 49: Joint creditors may declare credits by one representative creditor declaring credits for all joint creditors or they may declare credits together.

Article 50: The guarantors of a debtor or other joint debtors shall declare credits with the recourse right that they enjoy by bearing the responsibility of joint repayment.

Article 51: Where the procedures prescribed in this Law have applied to the joint debtors simultaneously or successively, their creditors are entitled to declare credits in separate bankruptcy cases for all the credits respectively.

Article 52: After receiving the materials for declaring credits, the administrator shall register and make a Credit Form and also examine whether or not the declaration of credit is real or valid.

When the administrator makes a Credit Form, the amount of the non-monetary credit shall be counted as the average market price at the place where the debt is performed on the date when the people's court decides on the acceptance of the bankruptcy case. The amount of monetary credit in foreign currency shall be counted as the base price of the exchange rate of the RMB market on the date when the people's court decides the acceptance of the bankruptcy case.

The original copy of the Credit Form and materials for declaring credits shall be kept in the people's court and the backup copy shall be kept by the administrator for interested parties to refer to.

Article 53: The Credit Form made in accordance with the provisions in Article 52 of this Law shall be submitted to the first creditor's meeting for investigation.

Where there is opposition against the credit of other creditors, reasons shall be provided and relevant evidence shall be submitted to the people's court to decide.

Where the administrator, debtors, creditors have no opposition against the credits contained in the Credit Form, the people's court shall decide on the credits.

Where the credits contained in the Credit Form cannot be confirmed owing to opposition, the creditors or the administrator may bring up a lawsuit concerning the confirmation of the credits to the people's court that has accepted the bankruptcy case.

## Chapter V: The Creditors' Meeting

### Section 1: General Provisions

Article 54: All creditors who have declared credits according to law are members of the creditors' meeting. Members of the creditors' meeting are entitled to attend the creditors' meeting and enjoy the rights to vote.

But the creditors whose credits have not been confirmed shall not exercise the rights to vote unless the people's court confirms temporarily the amount of the credits in order that the creditors can attend the creditors' meeting.

Secured creditors who have not abandoned their priority rights to be repaid do not have the rights to vote on the resolutions prescribed in Item 7 and Item 8, Paragraph One, Article 56.

The creditors may consign their deputies to attend the creditors' meeting and exercise the rights to vote. The deputies shall submit the creditor's letter of authority to the people's court or to Chairman of the creditors' meeting.

Article 55: The creditors' meeting sets up one chairman, who will be designated by the people's court from among the creditors with the rights to vote.

Chairman of the creditors' meeting shall preside over the creditors' meeting.

Article 56: The creditors' meeting shall perform the following functions and powers:

- (1) investigating into the credits;
- (2) selecting, appointing and replacing the administrator;
- (3) deciding to continue or terminate the debtor's business;
- (4) passing the conciliation agreement;
- (5) passing the reorganization plan;
- (6) passing the plan on how to manage the debtor's property;
- (7) passing the plan on how to appraise the bankrupt property;
- (8) passing the plan on how to distribute the bankrupt property; and
- (9) other matters that the people's court thinks should be decided by the creditors' meeting.

Article 57: The first creditors' meeting shall be called by the people's court, and shall be convened within 15 days after the expiration of the period for declaring credits.

Subsequent creditors' meeting are convened at such times as the people's court deems them necessary, and may also be convened upon the proposal by the administrator, the supervisor, the creditors whose credits are confirmed to comprise more than one-fourth of the total amount of claims to Chairman of the creditors' conference.

Article 58: The administrator shall notify the known creditors fifteen days in advance of the convention of the creditors' meeting.

Article 59: Resolutions at the creditors' meeting shall be adopted by more than half of the creditors with the right to vote present at the meeting; and the amount of their credits must comprise more than half of the total

amount of credits that are not secured with property unless this Law provides otherwise.

Where the resolutions at the creditors' meeting are considered to impair some creditors' interests, the administrator or impaired creditors may, within fifteen days after the creditors' meeting has made such resolutions, apply to the people's court for withdrawing the resolutions and ordering the creditors' meeting to make new resolutions.

Resolutions at the creditors' meeting shall have binding force on all the creditors.

Article 60: Where the creditors' meeting fails to adopt the things listed in Item 3, Item 6 and Item 7, Paragraph One, Article 56 of this Law by voting, the people's court shall make a ruling.

Where the creditors' meeting fails to adopt the things listed in Item 8, Paragraph One, Article 56 of this Law by a second voting, the people's court shall make a ruling.

The people's court shall announce the ruling prescribed in the preceding two paragraphs at the creditors' meeting with no necessity to notify or make a public announcement separately.

Article 61: Where the creditor refuses to accept the ruling made by the people's court according to Article 60 of this Law, he may apply for reconsideration to the same people's court within fifteen days. During the reconsideration period, the ruling shall be performed normally.

## Section 2: The supervisor

Article 62: The creditors' conference may select and appoint the supervisor. The supervisor shall be recognized by the people's court in written. The number of the supervisors shall not be more than three.

Article 63: The supervisor shall perform the following duties and powers:

- (1) supervising the management and handling of the debtor's

- property;
- (2) supervising the execution of the conciliation agreement;
- (3) supervising the execution of the reorganization plan;
- (4) supervising the distribution of the bankrupt property.

The supervisor shall be entitled to request the administrator, the executor of reorganization to make explanations or to supply relevant documents within the scope of their duties and powers when performing duties and powers.

Where the persons prescribed in the preceding paragraph violate the provisions of this Law and refuse to accept supervision, the supervisor shall be entitled to request the people's court to make a ruling on the supervision. The people's court shall make a ruling within five days upon the supervisor's request.

Where the supervisor causes damages to debtors or creditors either on purpose or by negligence, he shall be liable for the compensation.

Article 64: The administrator shall report the following activities of his to the supervisor in time:

- (1) transferring the ownership of real estate;
- (2) transferring such property rights as mining rights, tenure and intellectual property rights;
- (3) transferring all the stock or business operation;
- (4) setting a loan;
- (5) establishing a property collateral;
- (6) having to transfer the movable property valued at more than 10,000 Yuan in order to continue business operation;
- (7) transferring the credits and securities;
- (8) requesting for the performance of a bilateral contract;
- (9) going through conciliation procedure or arbitration concerning the debtor's property, lawsuits or other legal procedures;
- (10) giving up rights; and
- (11) withdrawing the guaranty.

## Chapter VI Reorganization

### Section 1: Application for and Examination of Reorganization

Article 65: The enterprise legal entity that can not pay off debts due but still is hopeful for rescue may apply for the reorganization procedure prescribed in this Law.

Article 66: Where the debtor or the creditors files an application according to Paragraph 1, Article 11 of this Law, they may apply for reorganization directly to the people's court.

After the people's court accepts the bankruptcy case but before the debtor is declared into bankruptcy, the debtor, the creditors or the investors who holds more than one-third of the debtor's registered capital, may apply for reorganization to the people's court.

Article 67: The person who applies for reorganization shall submit an application form and relevant evidences to the people's court.

Where examination reveals that the application for reorganization satisfies the following requirements, the people's court shall decide to permit the debtor to go through reorganization:

- (1) the debtor is an enterprise legal entity;
- (2) upon the agreement of the creditors who hold more than half of the amount of the total credits.

### Section 2: Business Operation during the Protective Period of Reorganization

Article 68: The period from the date when the people's court makes the ruling for the debtor to reorganize to the date when the people's court decides to approve of the reorganization plan or decides to terminate the reorganization procedure is the protective period of reorganization. The

protective period of reorganization shall not exceed six months.

Upon the request of the administrator and the agreement of the creditors' meeting, the people's court may decide to approve the extension of protective period not more than six months.

Article 69: During the protective period of reorganization, the administrator shall perform the duties and powers prescribed in Article 29 of this Law.

Article 70: During the protective period of reorganization, the administrator may employ staff to manage business operations for the enterprise.

Article 71: During the protective period of reorganization, the collateral rights of the guarantor shall be suspended. However, where the possibility that the collateral objects may be damaged or the value of the collateral objects may be decreased dramatically is such that they will hurt the rights of the guarantor, the guarantor shall be entitled to ask for resumption of exercising the collateral rights and the people's court shall approve of it.

The administrator may take back the pledge and lien so that the debtor can continue to operate business, but shall provide substitute guaranty.

Article 72: During the protective period of reorganization, the debts that the debtor bears in order to go on with business operation are debts of common benefits.

During the protective period of reorganization, where the debtor raises a loan in order to go on with business operation, the debtor may take the property that has not yet become the subject matter of the collateral rights as the guaranty of the credits.

The usage of the loan prescribed in the preceding paragraph shall be restricted and necessary control and supervision shall be performed on its usage.

Article 73: Where the right holder of the property that is occupied by the debtor on legitimate grounds requests to take back the property during the protective period of reorganization, agreed requirements shall be met.

Article 74: During the protective period of reorganization, the setoff of the debts between the creditors and debtors of reorganization shall apply to the relevant provisions in Contract Law of the People's Republic of China.

The setoff prescribed in the preceding paragraph shall not apply to the provisions prescribed in Paragraph One, Article 44 of this Law.

Article 75: During the protective period of reorganization, the administrator shall be entitled to dissolve or continue to perform the bilateral contract which is established before the beginning of the reorganization procedure but has not been performed yet, and shall notify in written the counterpart. Where the administrator does not notify the counterpart within three months from the beginning of the reorganization procedure, or does not give any reply within one month since receiving the counterpart's interpellation, the contract shall be deemed as being dissolved. The compensation request for damages caused by the dissolution of the contract shall be the declarable credit.

Where the administrator decides to continue to perform the bilateral contract that is established before the reorganization procedure and that has started to be performed, the counterpart of the bilateral contract shall perform the contract, but is entitled to request corresponding guaranty.

Article 76: Where the people's court decides to permit the debtor to carry on reorganization, the debtor's investor shall not ask the debtor for any property delivery based on the investor's right.

Where the people's court decides to permit the debtor to carry on reorganization, the directors, managers or other senior management of the debtor shall not transfer their shares of the debtor to a third party.

Article 77: During the protective period of reorganization, upon the request of interested parties, the people's court may decide to terminate the

reorganization procedure after examination and confirmation wherever any circumstances as following occurred:

- (1) if the management and financial situation of the debtor continue to be deteriorating and there is a lack of possibility to save it;
- (2) if the debtor acts with fraud, decreasing the enterprise's property in bad means, delaying without reasons or other behaviors that apparently are disadvantageous to the creditors;
- (3) if the behaviors of the debtor's institution or other employees make the administrator unable to perform his duty.

Where the reorganization plan has not been approved upon the expiration of the protective period of reorganization, the people's court shall decide to terminate the reorganization procedure ex officio.

Under the circumstances prescribed in the preceding two paragraphs, the people's court shall meanwhile make a ruling to declare the debtor bankrupt.

### Section 3: Reorganization Plan

Article 78: The administrator shall make the draft plan of reorganization with the assistance of the debtor.

Article 79: The draft plan of reorganization shall contain:

- (1) the management scheme of the reorganized enterprise;
- (2) the classification of the credits;
- (3) the adjustment scheme of the credits;
- (4) the repayment scheme of the credits;
- (5) the executor of reorganization;
- (6) the executing time limits of the reorganization plan; and
- (7) other schemes that are conducive to the reorganization of the enterprise.

Article 80: The credits are classified in the reorganization plan as follows:

- (1) secured credits;
- (2) labor credits;

- (3) taxation; and
- (4) ordinary credits.

Article 81: The administrator shall submit the draft plan of reorganization and the report on reorganization's feasibility to the people's court within the period set by the people's court.

Article 82: After receiving the draft plan of reorganization, the people's court shall call the convention of the creditors' meeting in time to vote if the draft plan is deemed to meet the requirements of this Law after examination.

The administrator shall make explanations about the draft plan of reorganization to the creditors' meeting and answer inquiries.

Article 83: The investors of the debtor may attend as non-voting delegates the creditors' meeting that discusses the draft plan of reorganization.

Article 84: Different groups based on the classification of the credits according to provisions in Article 80 of this Law shall vote in the creditors' meeting in order to pass the draft plan of reorganization.

Where more than half of the creditors in the same voting group present at the meeting agree on the draft plan of reorganization, and the amount of the credits takes up more than two-thirds of the settled credit amount, the draft plan of reorganization shall be deemed as being adopted by this group.

Where the groups all pass the draft plan of reorganization, the plan shall be deemed as being adopted.

Article 85: Where the draft plan of reorganization is not passed, the administrator may negotiate with the voting group that does not adopt the draft plan of reorganization. This voting group may vote again after negotiation. The compromise reached by the two sides in negotiation, shall not impair the interests of the other voting groups.

Where the draft plan of reorganization is still not adopted by the second voting after negotiation, the administrator may apply to the people's court for approval of the reorganization plan under the following conditions:

- (1) if based on the reorganization plan, the secured credits are fully paid off, the losses incurred by delayed repayment are compensated fairly and the collateral rights does not suffer substantial damages; unless the reorganization plan adopted by the group with secured credits provides otherwise.
- (2) if based on the reorganization plan, the labor credits and taxation credits shall be fully paid off, or if the adjusted repayment proportion has been adopted by corresponding voting groups.
- (3) if the repayment proportion of the credits without the security of property obtained according to the reorganization plan is no lower than the repayment proportion of the credits without the security of property obtained according to the bankruptcy liquidation procedure at the time when the reorganization plan is submitted for approval;
- (4) if the repayment order prescribed in the reorganization plan does not violate the provisions in Article 80 of this Law;
- (5) if the management scheme of the reorganized enterprise is feasible.

The people's court shall decide on the approval of the administrator's application after examining the application to meet the aforesaid provisions.

Article 86: Where the creditors' meeting has not passed the draft plan of reorganization and has not passed the reorganization plan after negotiation based on the provisions in Article 85 of this Law or has not submitted the reorganization plan to the people's court for approval, the people's court shall decide to terminate the reorganization procedure and declare the debtor bankrupt.

Article 87: The administrator shall apply to the people's court for its approval of the reorganization plan within ten days after the adoption of the reorganization plan.

Upon the receipt of the application, the people's court shall decide to approve the reorganization plan after examination that the plan meets the prescribed procedures of this Law.

Article 88: The people's court shall solicit the comments of the representatives of the employees, the representatives of the investors, the concerned authorities and the experts.

Article 89: Where the people's court thinks the reorganization plan does not meet the provisions of this Law after examination, it shall decide to refuse the application for reorganization plan or shall permit the administrator to resubmit a reorganization plan.

The people's court shall declare the debtor bankrupt after deciding to refuse the application for reorganization plan.

Article 90: The people's court shall notify the administrator of transferring the debtor's property and management affairs to the executor of the reorganization when deciding to approve the reorganization plan. The executor of the reorganization shall perform his duty from the date when the people's court decides to approve the reorganization plan. The administrator shall terminate to perform his duty from the date when the people's court decides to approve the reorganization plan. The administrator can become the executor of reorganization with the approval of the creditors' meeting and with recognition of the people's court.

Article 91: The reorganization plan approved by the people's court, shall have binding force over all the credits that have been established before the people's court accepts the bankruptcy case.

The reorganized credits that have not been declared according to the provisions of this Law shall not be claimed during the execution period of the reorganization plan and shall be claimed according to the repayment conditions prescribed as the same kind of credits in the reorganization plan after the completion of the execution of the reorganization plan.

The satisfied liabilities of the guarantor of the reorganized enterprise or other joint debtors shall not be affected by the reorganization plan.

Article 92: The reorganization executor shall be in charge of execution of the reorganization plan, be responsible for the creditors' meeting and report his work to it.

Article 93: Where the reorganized enterprise is unable to carry out or fails to carry out the reorganization plan, the people's court shall decide to terminate the execution of the reorganization plan.

Where the people's court decides to terminate the execution of the reorganization plan, it shall declare the debtor bankrupt. The payment obtained by the creditor owing to the execution of the reorganization plan is still in force. The unpaid part of the reorganized credit shall be deemed as the bankrupt credits.

The creditors prescribed in the preceding paragraph shall continue to receive distribution only if the other creditors are paid to the same proportion.

Under the circumstances prescribed in Paragraph One of this article, the concession made by the reorganized creditors in the reorganization plan loses its effect. However, the guaranty provided for the execution of the reorganization plan shall continue to be in force within the guarantee scope prescribed in the reorganization plan.

Article 94: Upon the completion of the execution of the reorganization plan, the reorganization executor shall terminate to perform his duty and submit a report on the execution to the people's court in time. The people's court shall decide to terminate the bankrupt case after examination and confirmation.

As to the reorganized credits that are deducted according to the reorganization plan, the debtor shall be exempted from his repayment liability of this part from the date when the people's court decides to terminate the bankruptcy case.

## Chapter VII: Conciliation

Article 95: The debtor may, according to Paragraph One, Article 11 of this Law, directly apply for a conciliation to the people's court.

After the acceptance of the bankruptcy case by the people's court and before the declaration of the bankruptcy case, the debtor may apply for conciliation to the people's court.

Article 96: The people's court may request the applicant to modify accordingly after examining the application for conciliation that fails to meet the requirements prescribed in this Law. Where the applicant refuses to make a modification or the modification still fails to meet the requirements prescribed in this Law, the people's court shall decide on refusal of the application for conciliation.

The people's court shall, within five days since the ruling of the refusal, notify the applicant with no necessity to make a public announcement.

The people's court shall declare the debtor bankrupt when it decides on refusal of the application for conciliation in accordance with this Law.

Article 97: The resolution of the conciliation agreement concluded at the creditors' meeting shall be adopted by over half of the creditors with voting rights present at the conference; and the amount of their credits must take up more than two-thirds of the settled total amount of credits.

Article 98: Where the draft agreement of conciliation is not passed at the creditors' meeting, the people's court shall declare the debtor bankrupt.

Article 99: Where the conciliation agreement concluded at the creditors' meeting violates the provisions of this Law, the people's court shall decide the invalidation of the conciliation agreement and declare the debtor bankrupt.

Article 100: The conciliation agreement concluded between the debtor and the creditors' meeting shall enter into force after the people's court decides to recognize it and make a public announcement.

Article 101: The public announcement concerning the conciliation agreement approved by the people's court shall contain:

- (1) the main body and date of the approved conciliation agreement;
- (2) the suspension of the bankrupt procedure;
- (3) other matters that the people's court thinks shall be publicized.

Article 102: Where the people's court decides to approve the conciliation agreement, it shall decide to suspend the bankrupt procedure simultaneously.

Where the people's court decides to suspend the bankrupt case, it shall inform the administrator to suspend his performance of his duty. The administrator shall transfer the property and the management affairs to the debtor, and also submit a report concerning his performance of duties to the people's court.

Article 103: The conciliation agreement shall have binding force over the debtor and all the conciliated creditors.

The conciliated creditors referred to in the preceding paragraph are the persons who have the right to claim before the people's court accepts the bankrupt case.

The conciliation credits, which are not properly applied for in accordance with the provisions of this Law, shall not be exercised during the performance of the conciliation agreement; and may be executed according to the repayment conditions prescribed in the conciliation agreement after the completion of the performance of the conciliation agreement.

Article 104: The rights of the conciliation creditors to the guarantor of the debtor and to the other joint debtors shall not be affected by the establishment of the conciliation agreement.

Article 105: The debtor shall not give extra benefits to specific

conciliation creditors on conditions contrary to the conciliation agreement, which will impair the interests of other conciliation creditors.

Article 106: The debtor shall pay off his debts according to the conditions prescribed in the conciliation agreement.

Article 107: The conciliation agreement shall be invalidated on the grounds of the debtor's fraud or other unlawful activities.

With the circumstances prescribed in the preceding paragraph, the people's court shall declare the debtor bankrupt.

With the circumstances prescribed in the preceding paragraph, the repayment that the creditors get based on the conciliation agreement shall not be returned within the scope of equal proportion.

Article 108: Where the debtor refuses to pay off his debts according to the conditions prescribed in the conciliation agreement, the conciliation creditors may file an application for enforcement to the people's court. The compromise that the conciliation creditors have made in the conciliation agreement shall lose effect.

Article 109: Where the debtor refuses or is unable to pay off his debts according to the conditions prescribed in the conciliation agreement, the conciliation creditors may request the people's court to declare the debtor bankrupt.

Where the people's court declares the debtor bankrupt, the repayment by the debtor's performing the conciliation agreement that the conciliation creditors get shall still be in force. The unpaid conciliation credits shall be deemed as the bankrupted credits.

The creditors prescribed in the preceding paragraph can only continue to receive distribution when the distribution of bankrupt property of other creditors reaches the same proportion as theirs.

Article 110: With the circumstances prescribed in Article 108 or Article 109 of this Law, the guarantee that a third party provides for the

establishment and performance of the conciliation agreement shall be continued to be in force.

Article 111: After the people's court accepts the bankrupt case, if the debtor reaches an agreement concerning the disposal of the credits and debts with the creditors who unanimously agree, they may request the people's court to decide on recognition of the agreement and at the same time decide to terminate the bankruptcy case.

## Chapter VIII: Bankrupt Liquidation

### Section 1: Declaration of Bankruptcy

Article 112: Where the people's court declares the debtor bankrupt in accordance with this Law, it shall make a ruling in written and shall deliver it to the debtor and the administrator within five days after making the ruling.

The debtor shall be called "the person who has gone bankrupt" after being declared bankrupt.

The debtor's property shall be called "bankrupt property" after the declaration of bankruptcy.

Article 113: After making the ruling of declaring the debtor bankrupt, the people's court shall notify the creditors who have definite addresses of the ruling within fifteen days after the ruling and shall also make a public announcement.

Article 114: The people's court shall decide to terminate the bankruptcy procedure and make a public announcement on the following grounds before the declaration of bankruptcy:

- (1) if a third party provides guarantee for the debtor or assists the debtor to pay off the debts;
- (2) if the debtor has paid off all of the debts due.

Article 115: Where the property of a partnership enterprise or its partners are insufficient to pay off the debts due, the people's court shall declare all the partners bankruptcy at the same time when it declares the partnership enterprise bankruptcy.

Where the people's court declares the partners bankruptcy, provisions of Article 112 of this Law shall apply.

Article 116: Where the property of an individual proprietorship enterprise and its investors is insufficient to pay off the debts, the people's court shall declare it bankruptcy.

## Section 2: Recall Right and Exemption Right

Article 117: The owner and other right holders of the property that does not belong to "the person who has gone bankrupt" may take back the property from the administrator.

Article 118: Where the buyer is declared bankrupt before receiving the subject matter which the seller has already dispatched and for which he has not paid off the full price, the seller may take back the subject matter which is on delivery. But the administrator may pay off the full price and ask the seller to deliver the subject matter.

The provisions of the preceding paragraph do not obstruct the application of the provisions in Article 127 of this Law.

Article 119: The real rights granted by way of security such as mortgage, pledge and lien over the property or the rights of the debtor is exemption right. The holder of such a right is the holder of exemption rights.

The holder of exemption rights has the prior rights to be paid off on the subject matter of the exemption right.

Article 120: The holder of exemption rights shall not be bound by the liquidation procedure and conciliation procedure when exercising his rights.

Where the holder of exemption rights has not been fully paid off when

exercising the exemption rights, the holder shall exercise his rights according to the liquidation procedure and conciliation procedure.

In the bankrupt liquidation, where the holder of exemption rights gives up his prior right to be paid off, he shall exercise his rights according to liquidation procedures or conciliation procedures unless the person who has gone bankrupt provides the guaranty of property rights for a third party with his property.

Article 121: The administrator may take back the subject matter of the exemption right by means of repayment or providing the guaranty acceptable to the creditors.

Where the value of the subject matter of the exemption right is lower than that of the guaranteed credit, the debt repayment or substitute guaranty prescribed in the preceding paragraph shall be limited within the scope of the market price of the subject matter at that time.

### Section 3: Bankruptcy Credit and Setoff Right

Article 122: The credits to the debtor that is established before the people's court accepts the bankruptcy case is bankruptcy claim.

Article 123: Where one or more joint debtors are declared bankruptcy, the creditor may claim his rights to all of the persons who have gone bankrupt with the full amount of his credit at the time of the declaration of bankruptcy as his bankruptcy credit.

Article 124: Where one or more joint debtors are declared bankrupt and other joint debtors have already paid off the debts for the person who has gone bankrupt, the other joint debtors may claim their rights with the claiming right as their bankruptcy credit.

Where one or more joint debtors are declared bankruptcy, the other joint debtors may claim their rights with the future claim right resulting from replacing the person who has gone bankrupt to pay off debts as the

bankruptcy credit unless the creditor has already claimed his right with the full amount of his credit.

Article 125: The provisions of Article 124 of this Law shall apply to the guarantor of the person who has gone bankrupt.

Article 126: Where the partners are declared bankruptcy in accordance with this Law, the partners shall be liquidated respectively.

The creditors of a copartner and the creditors of a partnership enterprise shall be in equal position in the bankruptcy liquidation procedure.

Where the bankruptcy property of a partnership enterprise is insufficient to pay off the creditors' bankruptcy credits, the creditors of this partnership enterprise may claim their rights in the liquidation procedures of all partners according to the provisions of Article 123 of this Law.

Article 127 With respect to bilateral contracts that has not been performed yet, the administrator has the right to decide whether to terminate or continue to perform the contract.

The opposite party of the contract may demand a ruling by the administrator within a set period of time. The absence of any response on the expiry of the given period will be treated as termination of the contract.

When the administrator decides to continue to perform the contract, and the opposite party requires to provide corresponding collateral for performing the contract during the period agreed or reasonable period, the administrator does not provide the collateral during the period proscribed above, the contract is deemed as dissolved.

With respect to any agreements terminated by the administrator but with advances paid, the rights to recovering the advances constitutes a bankruptcy claim, on premises that the claim shall not exceed the amount of the advances.

According to the above provisions of the Law, in case of any losses incurred on the opposite party as a result of the termination of contracts, the right to compensation constitutes bankruptcy claims.

Article 128 In the case of termination of entrustment agreement, whereas the trustee carries on his entrusted businesses without any knowledge or being informed of the termination of the entrustment agreement and incurred losses thereof, any claims resulted thereof constitute bankruptcy claims.

Article 129 In the case of the drawer or endorsee of bills declared bankrupt, whereas the drawee or acceptor has made payment or acceptance of the bills without any knowledge or being informed of the bankruptcy of the same and incurred losses thereof, any claims resulted thereof constitute bankruptcy claims. The drawee and acceptor are creditors.

Article 130 Creditors who owe debts to the bankrupt may offset them, on condition that the repayments are of the same nature, before the announcement of bankruptcy property distribution.

Article 131 Repayment offsets shall not be made under any of the following circumstances inconsistent with Article 130 of the Law:

- 1) Creditors in debt to the bankrupt enterprise after the declaration of bankruptcy;
- 2) Debtors to the bankrupt enterprise acquiring bankruptcy claims after the declaration of bankruptcy;
- 3) Creditors running into debts to the bankrupt enterprise in spite of the fact that the latter has suspended payments or has been filed for bankruptcy; Whereas debts incurred from reasons provided by law or one year before filing for bankruptcy are excluded from this directory.
- 4) Debtors acquiring claims to the bankrupt enterprise in spite of the fact that the latter has suspended payments or has been filed for bankruptcy; Whereas claims acquired for reasons provided by law or one year before filing for bankruptcy are excluded from this directory.

## Section 4

### Appraisal, Disposition and Distribution of Bankruptcy property

Article 132 Upon declaration of bankruptcy, the administrator shall be responsible for the appraisal, disposition and distribution of bankruptcy property as appropriate in accordance with the distribution plan made at the creditors' meeting.

Article 133 The administrator shall be responsible for drafting up the distribution plan of bankruptcy property in due time and submit the same to the creditors' meeting for discussion. The creditors' meeting shall discuss and adopt a plan for the disposition and distribution of bankruptcy property.

Article 134 Bankruptcy property shall be sold off through auction unless otherwise provided by resolutions of the creditors' meeting.

Complete sets of equipment in the bankruptcy property shall be sold as a whole, and that which cannot be sold as a whole may be sold in parts.

The bankrupt enterprise may be sold either as a whole or in parts. Intangible assets and other assets may be sold separately in the latter case.

Bankrupt property that is not allowed to be auctioned or sold in public as provided by state laws or regulations shall be disposed of as per relevant laws or regulations.

Article 135 After the prior deduction of bankruptcy expenses and public debts from the bankruptcy property, repayment shall be made in the following order:

- 1) wages of staff and workers, labor insurance as well as other expenses due as provided by state laws and administrative regulations owed by the

- bankrupt enterprise;
- 2) taxes owed by the bankrupt enterprise; and
- 3) ordinary bankruptcy claims.

Where the bankruptcy property is insufficient to meet all repayment needs within a single order of priority, it shall be distributed on a pro-rata basis.

Article 136 Distribution bankruptcy property shall be conducted in the form of money unless otherwise provided by the creditors' meeting.

Article 137 The administrator shall arrange in due time the drafting-up of distribution plan of bankruptcy property and submit it to the creditors' meeting for discussion.

The above-mentioned distribution plan of bankruptcy property shall include the following items:

- 1) name and address of creditors participating in the distribution;
- 2) total sum of claims entitled to creditors qualified for the distribution;
- 3) total sum of bankrupt property distributable;
- 4) the order, proportion and amount of the distribution;
- 5) the ways of distribution.

Upon the resolution over the distribution plan made by the creditors' meeting, the administrator shall submit the plan to the people's court for approval.

The distribution plan goes into effect upon the day of approval by the people's court.

Article 138 the administrator shall be responsible to carry out the plan upon its effect.

The administrator may arrange distributions either once-for-all or for many times as per the distribution plan.

In the case of many distributions, the administrator shall announce the total amount of property and that of creditors' right of each distribution. In the case of final distribution, the administrator shall also make announcement as appropriate, which shall incorporate all items listed in Provision 2, Article 139 of the Law.

#### Article 139

The administrator shall separately keep claims with conditions attached.

The portion of property set aside by the administrator for conditional claims shall be distributed, provided that the conditions are not met or the termination conditions are met upon the announcement of final distribution, to the other creditors; on the contrary, should the conditions are met or the termination conditions are not met upon the announcement of final distribution, the portion set aside shall be distributed to the creditor involved.

Article 140 The portion of distributed property unaccepted by creditors shall be separately kept by the administrator

Sixty days following the announcement of final distribution, distributed property unaccepted by the creditor shall be deemed as abandonment of claims. The unaccepted property shall be distributed to the other creditors.

Article 141 With respect to claims in course of litigation or arbitration during the distribution, the administrator shall set aside due proportion of property. Whereas, in regard to claims undistributable after two years following the conclusion of bankruptcy proceedings, the due proportion set aside shall be distributed to the other creditors.

## Section 5 Termination of Bankruptcy Proceedings

Article 142 If the debtor has no property to distribute, the administrator may apply to the people's court for termination of bankruptcy.

Following the final distribution of the bankruptcy property, the administrator shall, without delay, submit to the people's court a distribution report and apply for termination of the bankruptcy.

The people's court shall, within 15 days following the administrator's application, make its ruling on termination of the bankruptcy.

Article 143 The administrator shall, within 10 days upon termination of the bankruptcy, handle the procedures for the cancelation of registration of the bankrupt enterprise at the original registration authorities with the judgement of termination from the people's court.

Article 144 The administrator shall cease its assignments following the other day of the cancelation of registration unless there are litigation or arbitration pending.

Article 145 After two years when the bankruptcy is terminated as per the provisions in Article 41 or Article 142 of the Law, creditors are entitled to apply to the people's court for additional repayment according to the distribution plan in any of the following circumstances:

- 1) under the conditions provided in Article 33, Article 34 and Article 35 of the Law where the bankruptcy property shall be retrieved;
- 2) the bankrupt enterprise is discovered to be in possession of other property

that should be distributed.

Under the circumstances as provided in above articles yet the property discovered is too little in sum to cover distribution expenses, additional repayment shall not be made. The property discovered shall be turned over to the state.

Article 146 Upon conclusion of the bankruptcy proceedings, the guarantor and joint debtor of the bankrupt enterprise shall continue to be responsible for repayment of any bankruptcy claims of creditors that have not been satisfied during the bankruptcy proceedings.

## Section 6 Relief

Article 147 Upon conclusion of the bankruptcy proceedings, partners in partnership business, proprietor of private business shall, within the limit of their proceedings in the business, continue to be responsible for repayment of any bankruptcy claims of creditors that have not been satisfied during the bankruptcy proceedings unless being exempted from the above responsibility as provided in Article 148 of the Law.

The bankrupt enterprise may draft up a repayment plan for any repayments after the conclusion of the bankruptcy proceedings and submit the plan to the creditors' meeting for approval before the conclusion. The repayment plan approved by the creditors' meeting is equally binding to both creditors and debtors.

Article 148 Upon conclusion of the bankruptcy proceedings, the bankruptcy enterprise shall, under any of the following circumstances, be exempted from any bankruptcy claims remained unpaid, with the exception of compensation

for any losses by intentional crimes:

- 1) where over 40% of all bankruptcy claims have been repaid upon the termination of bankruptcy proceedings and at the expiration of three years upon the conclusion;
- 2) where over 30% (yet less than 40%) of all bankruptcy claims have been repaid upon the termination of bankruptcy proceedings and at the expiration of 4 years upon the conclusion;
- 3) where over 20% (yet less than 30%) of all bankruptcy claims have been repaid upon the termination of bankruptcy proceedings and at the expiration of 5 years upon the conclusion;
- 4) where over 10% (yet less than 20%) of all bankruptcy claims have been repaid upon the termination of bankruptcy proceedings and at the expiration of 7 years upon the conclusion;
- 5) where less than 10% of all bankruptcy claims have been repaid upon the termination of bankruptcy proceedings and at the expiration of 10 years upon the conclusion;

Whereas the bankrupt enterprise shall not be exempted from its responsibilities under any of the conditions provided in Article 150, Article 151, Article 152, Article 153, Article 154, Article 156 and Article 158 of the Law.

Where the bankrupt enterprise exempted from its responsibilities insists, of its own will, to repay any bankruptcy claims already exempted, any proceedings acquired by creditors are legally protected.

## Chapter IX Legal Liabilities

Article 149 Where the directors, managers and other personnel of the bankrupt enterprise, owing to major negligence or intentional offense, bear major responsibility for the bankruptcy of the bankrupt enterprise, the person

involved shall take joint repayment liability; where their misconduct constitutes crimes, criminal responsibility shall be investigated in accordance with relevant laws of the state.

Personnel subject to above mentioned penalties shall be restricted from any business operations or business management within 5 years following the conclusion of the bankruptcy proceedings.

Article 150 Debtors or debtor's representatives, who are obliged to be present at the creditors' meeting yet absent from the meeting without rational reasons in spite of the summon from the people's court, shall be arrested and taken into custody by the people's court and shall be subject to an administrative fine of over RMB5,000 but below RMB50,000. Debtors and other personnel responsible to make accounts or give explanations, or even make false accounts or explanations, shall be subject to an administrative fine of over RMB5,000 but below RMB50,000 by the people's court.

Where the above mentioned misconduct constitutes crimes, criminal responsibilities shall be investigated.

Article 151 Where the debtor, in violation of the provisions of this Law, refuses to submit the specification on his financial status, the detailed list of debts, the detailed list of credits and related financial report to the people's court, or submit unreal documents, the people's court may impose a fine ranging from over 5, 000 yuan to under 50,000 yuan upon the person directly responsible for the conditions.

Where the debtor, in violation of the provisions of this Law, refuses to transfer the property or the accounting books, documents, material, data, seals related to the property to the administrator or the bankrupt liquidator, or the debtor counterfeits, destroys some evidence related to the property, resulting in the ambiguity of the property status, the people's court may impose a fine ranging from over 10, 000 yuan to under 50,000 yuan upon the person directly responsible for the conditions.

Where any person acts as prescribed in the preceding two paragraphs and the case is so serious as to constitute a crime, he shall be prosecuted for his criminal liabilities according to law.

Article 152 Where the debtor acts as prescribed in the provisions of Article 35 of this Law, the people's court may impose a fine ranging from over 20,000 yuan to below 100,000 yuan upon the person directly responsible for the action. Where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities according to law.

Article 153 Where the debtor acts as prescribed in the provisions of Article 33 and Article 34 of this Law, the people's court may impose a fine ranging from over 10,000 yuan to below 50,000 yuan upon the person directly responsible for the action. Where the case is so serious as to constitute a crime, he shall be prosecuted for his criminal liabilities according to law.

Article 154 Where the debtor has known or should have known his inability to pay off his due debts, but still makes irrational or extravagant expenses, the people's court may impose a fine ranging from over 10,000 yuan to below 50,000 yuan upon the person directly responsible for the action. Where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities according to law.

Article 155 Where during the performance of their duties or the exercise of their rights according to this Law, the administrator, the reorganization executor, the supervisor or the creditor demands, accepts bribes or transfers the property to obtain inappropriate interests through taking advantages of their duties or position, the people's court may impose a fine ranging from over 20,000 yuan to below 100,000 yuan based on the severity of the case. Where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities according to law.

Article 156 Where any person bribes the administrator, the reorganization executor, the supervisor, the creditor or their deputies in the procedures prescribed in this Law, the people's court may impose a fine ranging from over 5,000 yuan to below 50,000 yuan upon the person directly responsible for the action based on the severity of the case. Where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities according to law.

Article 157 Any person in violation of the provisions prescribed in Paragraph Two, Article 11 of this Law shall be imposed a fine ranging from over 10,000 yuan to below 50,000 yuan. Where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities according to law.

Article 158 Where any person violates the provisions prescribed in Item Four, Paragraph One, Article 21 of this Law, the people's court may admonish or detain him, and may also impose a fine ranging from over 5,000 yuan to below 50,000 yuan.

Article 15 Where the administrator, the reorganization executor or the supervisor causes economic losses to the creditors, the debtor or a third party by means of negligence of duty or other unlawful activities, they shall be responsible for the compensation. Where the losses are enormous, the person may be imposed a fine ranging from over 20,000 yuan to below 100,000 yuan or be detained according to the severity of the case; where the case is so serious as to constitute a crime, the person shall be prosecuted for his criminal liabilities.

## Chapter X: Supplementary provisions

Article 160: The bankruptcy of commercial banks shall not apply to the provisions of this Law.

Article 161: The legal expenses for a bankruptcy case shall be collected according to the standards of half of that for a civil case.

Article 162: This Law shall enter into force as of... . The Law of the People's Republic of China on Enterprise Bankruptcy for Trial Implementation shall be abolished from the date when this law enters into force.