

# ASSUMPTIONS AND INITIATION OF PRE-BANKRUPTCY PROCEEDINGS

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| Competence:                                       | <ul style="list-style-type: none"> <li>▶ The Commercial Court in whose territory the debtor's registered office is located shall have exclusive jurisdiction.</li> </ul>  |
| Reasons for initiating pre-bankruptcy proceedings | <ul style="list-style-type: none"> <li>▶ Pre-bankruptcy proceedings may be opened if the court determines that there is a threatening inability to pay.</li> <li>▶ A threatening inability to pay exists if the proposer makes it probable that the debtor will not be able to fulfill his existing obligations when due.</li> <li>▶ A threatening inability to pay shall be deemed to exist if, at the time of the submission of the proposal, circumstances have not arisen which led to the assumption that the debtor had become more permanently unable to pay and if: <ul style="list-style-type: none"> <li>a) the debtor in the Register of payment order records maintained by the Financial Agency has one or more recorded outstanding payment bases which, on valid payment grounds, should have been collected from any of his accounts without the further consent of the debtor or</li> <li>b) he is more than 30 days late with payment of a salary that belongs to an employee under an employment contract, rulebook, collective agreement or special regulation, or under another act governing the employer's obligations to the employee, or</li> <li>c) he does not pay contributions and taxes on the salary from the previous point, counting from the day when he was obliged to pay the employee his salary.</li> </ul> </li> </ul> |
| Duration of the proceedings                       | <ul style="list-style-type: none"> <li>▶ Urgent procedure.</li> <li>▶ No later than 300 days after the day of the initiation of pre-bankruptcy proceedings.</li> <li>▶ Exceptionally, the court may, at the debtor's request, allow an extension of the time limit for a further 60 days if it considers that this would be expedient in order to conclude a pre-bankruptcy agreement.</li> </ul>   |
| Cost of the proceedings                           | <ul style="list-style-type: none"> <li>▶ The applicant is obliged to pay an advance for the costs of the pre-bankruptcy proceedings in the amount of HRK 5,000.00.</li> <li>▶ If two or more petitions are filed, each of the petitioners is required to pay an advance on the costs of the pre-bankruptcy proceedings in the same amount.</li> <li>▶ Each creditor shall bear their own costs of proceedings.</li> <li>▶ If the applicant for the initiation of the pre-bankruptcy procedure has not paid the down payment for the costs of the pre-bankruptcy proceedings, the court will reject the application as inadmissible.</li> </ul>  |

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| <p>How to initiate pre-bankruptcy proceedings</p>                                      | <ul style="list-style-type: none"> <li>▶ Through the form prescribed by the Regulations;</li> <li>▶ In addition to the evidence proving a threatening inability to pay, it is necessary to submit the List of assets and liabilities of the debtor in accordance with the Bankruptcy Law as an attachment to the form for initiating pre-bankruptcy proceedings.</li> </ul>   |
| <p>What is submitted with the proposal for initiating a pre-bankruptcy proceeding?</p> | <ul style="list-style-type: none"> <li>▶ The petitioner for the initiation of the pre-bankruptcy procedure is obliged to submit the following with the proposal for the initiation of the pre-bankruptcy procedure:             <ul style="list-style-type: none"> <li>a) financial statements in accordance with the Accounting Act not older than three months from the date of filing of the proposal for initiating pre-bankruptcy proceedings, with comparative data in the financial statements being presented as at the date of the annual financial statements of the previous year, or records kept in accordance with tax regulations if the debtor is a taxpayer of income tax</li> <li>b) a statement of the number of employees on the last day of the month preceding the date of submission of the proposal</li> <li>c) Proposal for a restructuring plan.</li> </ul> </li> </ul> |
| <p>To whom the proposal to initiate proceedings is submitted</p>                       | <ul style="list-style-type: none"> <li>▶ Commercial court in whose court register the debtor's seat is registered.</li> </ul>   |
| <p>What if the proposal is not complete</p>  | <ul style="list-style-type: none"> <li>▶ The court will order the applicant to supplement the proposal within 8 days. The deadline cannot be extended.</li> <li>▶ If the court instructions are not followed, the court shall, within eight days after the expiry of the deadline, reject the proposal to initiate pre-bankruptcy proceedings.</li> <li>▶ If a complete proposal is submitted, the court will, within 8 days from the day of filing, decide on the proposal to initiate pre-bankruptcy proceedings.</li> </ul>  |
| <p>Can a proposal to initiate pre-bankruptcy proceedings be withdrawn?</p>             | <ul style="list-style-type: none"> <li>▶ It may be withdrawn pending the adoption of a decision to initiate a pre-bankruptcy proceeding or a decision rejecting a proposal.</li> <li>▶ In this case, the court issues a decision to suspend the pre-bankruptcy proceedings.</li> <li>▶ The applicant shall bear the incurred costs for this proceeding.</li> </ul>  |

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| <p>Can the debtor's business continue and how</p> | <ul style="list-style-type: none"> <li>▶ Only payments necessary for regular business operations (from the date of filing a petition for initiating pre-bankruptcy proceedings to the issuance of a decision on initiating bankruptcy proceedings)</li> <li>▶ It is considered that for regular business operations the following is necessary: <ul style="list-style-type: none"> <li>a) payments from employment in gross amount to employees and former debtors whose claims are due until the day the pre-bankruptcy proceedings are initiated,</li> <li>b) severance pay up to the amount prescribed by law and collective agreement,</li> <li>c) claims for damages suffered as a result of injury at work or occupational disease, respectively</li> <li>d) employees' salaries increased by the amount of the contribution to the base and other substantive rights of employees in accordance with employment contracts and collective agreements due after the filing of a proposal for the initiation of bankruptcy proceedings,</li> <li>e) payments for the costs of pre-bankruptcy proceedings and other payments necessary for the ordinary course of business prescribed by a separate law.</li> </ul> </li> <li>▶ During the said period, the debtor cannot alienate or encumber his property.</li> </ul> |
| <p>Classification of creditors</p>                | <ul style="list-style-type: none"> <li>▶ The creditors are grouped according to their claims. The list of reported creditor claims is set out in a table.</li> <li>▶ The debtor is obliged to make the reported claims of the creditors known.</li> </ul>  |
| <p>Creditors' vote</p>                            | <ul style="list-style-type: none"> <li>▶ Each group of eligible creditors separately votes on the restructuring plan.</li> <li>▶ Creditors will be deemed to have accepted the restructuring plan if the majority of all creditors voted for it and if in each group the sum of claims of creditors who voted for the plan exceeds twice the sum of claims of creditors who voted against the acceptance of the plan.</li> </ul>   |

In the light of frequent legislative changes in the Republic of Croatia,  
make sure that this version is still up to date and actual.

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