

**LAW ON BANKRUPTCY AND LIQUIDATION OF BANKS AND  
INSURANCE COMPANIES**

**I. GENERAL PROVISIONS**

Article 1

This Law shall regulate terms and proceedings of bankruptcy and liquidation of banks and insurance companies, as well as terms and proceedings of liquidation of other financial organizations.

Article 2

Bankruptcy proceedings may be undertaken over a bank, whose operating license has been revoked by the National Bank of Serbia, in conformity with the Law governing banks and other financial organizations, as well as over an insurance company, whose license to conduct insurance operations has been revoked by the National Bank of Serbia, in conformity with the Law, governing insurance, and which has been illiquid for 15 days continually, or whose liabilities exceed its assets.

Bankruptcy proceedings may also be undertaken upon the request of a liquidation administrator, determining that liquidation debtors' assets are not sufficient to settle all creditors' claims.

Article 3

Liquidation of a bank, other financial organization and insurance company, may be enforced or voluntary.

Enforced liquidation proceedings shall be undertaken over a bank or other financial organization, whose operating license has been revoked by the National Bank of Serbia, i.e., over an insurance company, whose license to conduct insurance operations has been revoked by the National Bank of Serbia, when requirements for instituting bankruptcy proceedings have not been met.

Liquidation proceedings over a bank, other financial organization and insurance company, whose competent bodies have rendered a decision to dissolve it, shall be conducted, with the approval of the National Bank of Serbia, and in conformity with the Law, governing economic entities (voluntary liquidation).

Enforced liquidation proceedings may be undertaken over entities from paragraph 3 of this Article, whose competent bodies have rendered a decision to dissolve it and if additionally the National Bank of Serbia refused to approve conducting of voluntary liquidation proceedings.

Enforced liquidation proceedings shall also be undertaken over entities from paragraph 3 of this Article, if the National Bank of Serbia, in course of monitoring the voluntary liquidation of these entities, determines that rights of creditors have been put into jeopardy.

## II. BANCROPTCY PROCEEDINGS

### 1. Instituting bankruptcy proceedings

#### Article 4

On the basis of the decision to revoke a banks' operating license, or license to conduct insurance operations, the National Bank of Serbia shall immediatly render a decision on meeting the requirements for instituting bankruptcy proceedings.

The National Bank of Serbia shall render a decision on meeting the requirements for instituting bankruptcy proceedings, not later than the next day following the receipt of the request of the liquidation administrator, from Article 2, paragraph 2 hereof.

The decision on meeting the requirements for instituting bankruptcy proceedings shall be final. The decision on meeting the requirements for instituting bankruptcy proceedings shall be executed when delivered to a competent court.

#### Article 5

Against the National Bank of Serbia's decision related to meeting the requirements for instituting bankruptcy proceedings, an administrative procedure may be initiated.

The competent court shall render a decision in a dispute brought in the context of paragraph 1 of this Article, within 60 days from the date of receipt of the complaint.

If the decision of the National Bank of Serbia has been annulled in an administrative procedure, and the National Bank of Serbia renders another decision on meeting the requirements for instituting bankruptcy proceedings in a renewed procedure, the legal consequences of instituting bankruptcy proceedings shall run from the date of expiration of the first announcement on instituting the bankruptcy proceedings, put on the notice board of the competent court.

#### Article 6

The decision on meeting the requirements for instituting bankruptcy proceedings shall be forwarded to the bank, or insurance company, the agency for deposit insurance, established by special Law (hereinafter referred to as: the Agency), as well as to the competent court, which shall render a decision on instituting bankruptcy proceedings over a bank, or insurance company (hereinafter referred to as: the bankruptcy debtor), not later than the first business day following the day of receipt of this decision.

### 2. Bodies of bankruptcy proceedings

#### Article 7

Bankruptcy proceedings must have a bankruptcy council, bankruptcy administrator and board of creditors.

Agency shall perform the function of the bankruptcy administrator, in conformity with this Law.

Upon request of the Agency, the bankruptcy council performs selection of members to the board of creditors, taking into account the volume of their claims.

### 3. Legal consequences of instituting bankruptcy proceedings

#### 3.1. Basic rule

##### Article 8

Legal consequences of instituting bankruptcy proceedings shall run from the date of expiration of the first announcement on instituting bankruptcy proceedings placed on the notice board of the competent court.

#### 3.2. Insured deposits of a bank in bankruptcy

##### Article 9

Agency shall payout insured deposits of natural persons, in conformity with the Law governing the deposit insurance.

#### 3.3. Transfer of the insurance portfolio of insurance company in bankruptcy

##### Article 10

Within 20 days from the date of instituting bankruptcy proceedings, the Agency shall announce, by means of a public tender, the transfer of complete or partial insurance portfolio, in accordance with available financial resources of a bankruptcy debtor and pay-off lines, in conformity to this Law.

In addition to the transfer of insurance portfolio to an insurance company taking over the insurance portfolio, appropriate financial resources shall be transferred as well.

The National Bank of Serbia shall issue an approval for the selection of the best bidder - the portfolio acquirer.

Insurance portfolio transfer shall be executed by a contract concluded between the bankruptcy debtor and insurance company – portfolio acquirer, within two business days from the date of receipt of the approval from paragraph 3 of this Article.

Agency shall notify insurance clients and other beneficiaries about the conclusion of the contract from paragraph 4 of this Article via the announcement in the media, within two business days from the date of conclusion of the contract.

Provisions of the Law governing insurance shall be respectively applied to the insurance portfolio transfer.

### 3.4. Refutation of legal actions

#### Article 11

The Agency and creditors shall have the right to refute legal affairs and legal actions, by which bankruptcy debtor conducted operations with creditors, in terms of the Law governing the bankruptcy of economic entities.

Legal affairs and legal actions from paragraph 1 of this Article may be refuted, if executed within six months prior to the date of enactment of legal consequences of instituting bankruptcy proceedings.

Legal affairs and legal actions from paragraph 1 of this Article shall be refuted by a legal suit, which can be brought no later than within six months from the date of enactment of legal consequences of instituting bankruptcy proceedings.

### 3.5. Prohibition to sell a debtor as a legal entity

#### Article 12

In the bankruptcy proceedings over a bank and insurance company, selling of the bankruptcy debtor, as a legal entity, shall not be allowed.

## 4. Obligations of the Agency

#### Article 13

Agency shall perform an inventory of bankruptcy debtors' assets and make opening bankruptcy balance sheet, within 60 days from the date of enactment of bankruptcy proceedings. .

#### Article 14

Agency shall determine the validity and volume of reported creditors' claims, within six months from the date of expiration envisaged for registration thereof.

Examination hearing, where a final list of all registered claims shall be put together, shall be held no later than within 60 days from the date of deadline expiration from paragraph 1 of this Article.

#### Article 15

Agency may decide to cover the bankruptcy proceedings expenses from its own funds, while maintaining the right to recover those funds, after establishment of bankruptcy estate, to the extent, sufficient to cover such expenses.

## 5. Settlement of creditors

### 5.1. Expenses payout

#### Article 16

Before the main distribution, a bankruptcy debtor, as a claim against the bankruptcy estate, shall pay:

- 1) Unpaid net wages of employees, amounting to the minimum wages for the last year, prior to the opening of the bankruptcy proceedings,
- 2) unpaid contributions for pension and disability insurance of employees for the last two years prior to the opening of bankruptcy proceedings,
- 3) monthly wages of persons employed with the bankruptcy debtor;
- 4) costs burdening the assets of a bankruptcy debtor and costs of converting this property into cash;
- 5) bankruptcy proceedings costs;
- 6) other expenses and obligations emerging after instituting a bankruptcy proceedings.

Expenses from paragraph 1 Items 3), 4), 5) and 6) of this Article, bankruptcy debtor shall pay out monthly, while expenses from Items 1) and 2), as a charge to outstanding resources.

### 5.2. Pay-out lines

#### Article 17

Claims of creditors from the bank in bankruptcy shall be determined at the examination hearing and payed out, according to the following priority lines (pay-out lines):

- 1) Claims of the Agency on the basis of insured deposits amount of natural persons and claims on the basis of natural persons' deposits decreased by the amount of insured deposit;
- 2) claims on the basis of public revenue received in the last three months prior to instituting of bankruptcy proceedings, except for contributions for pension and disability insurance of employees;
- 3) claims of other creditors;
- 4) claims of banks' shareholders.

#### Article 18

Claims of creditors of an insurance company in bankruptcy shall be determined at the examination hearing and payed out according to the following priority lines (pay-out lines))

- 1) claims of creditors on the basis of the contract on life insurance and re-insurance, amounting to the level of obligations declared in funds of mathematical reserves, in conformity with the Law governing insurance;
- 2) claims of creditors on the basis of the contract on insurance against consequences of accidents;
- 3) claims of creditors, on the basis of the contract on insurance of all other types of insurance;
- 4) claims of creditors on the basis of the contract on re-insurance of all other types of insurance;
- 5) claims on the basis of public revenues due in the last three months prior to instituting of bankruptcy proceedings, except for contributions for pension and disability insurance;
- 6) claims of other creditors;
- 7) claims of shareholders of insurance companies i.e. members (insurance clients) of mutual insurance companies.

## 6. Application of the Law governing the bankruptcy of economic entities

### Article 19

Unless otherwise prescribed by this Law, provisions of the Law governing the bankruptcy of economic entities, except for provisions on previous bankruptcy proceedings, bankruptcy judge, board of creditors and re-organization, shall apply to bankruptcy proceedings of banks and insurance companies.

## III. LIQUIDATION PROCEEDINGS

### 1. Enforced liquidation

#### Article 20

On the basis of the decision on revoking operating license, the National Bank of Serbia shall immediately render a decision on liquidation of a bank or other financial organization.

On the basis of the decision on revoking operating license to conduct insurance operations, the National Bank of Serbia shall immediately render a decision on liquidation of an insurance company.

#### Article 21

Provisions of the Law governing the bankruptcy of economic entities and provisions of this Law governing the bankruptcy, shall be respectively applied in liquidation, except for the provisions regulating the board of creditors, individual creditors, refutation of legal actions, deposit insurance and pay-out lines.

#### Article 22

Liquidation proceedings must consist of a liquidation council and a liquidation administrator.

Agency shall perform the function of liquidation administrator, in conformity with this Law.

#### Article 23

If the Agency, during the course of the liquidation procedure, determines that requirements for instituting liquidation proceedings have been met, it shall submit such proposal to the National Bank of Serbia.

In the case of paragraph 1 of this Article, actions conducted in the liquidation proceedings shall be valid in bankruptcy proceedings as well.

### 2. Voluntary liquidation

#### Article 24

Voluntary liquidation proceedings shall be conducted, with approval of the National Bank of Serbia, over a bank i.e. other financial organization i.e. insurance company, whose assembly has rendered a decision on dissolution of such entity.

Manager of the entity from paragraph 1 of this Article, whose assembly has rendered a decision to dissolve it, shall submit the request for approval to conduct voluntary liquidation proceedings to the National Bank of Serbia, no later than the next business day following the day of rendering such Decision.

In addition to the request from paragraph 2 of this Article, the manager shall submit the evidence that the bank, i.e. other financial organization, i.e. insurance company possess the assets in the amount sufficient to pay off claims of all creditors, as well as other documents in conformity with National Bank of Serbia regulations.

The National Bank of Serbia shall decide on the request from paragraph 2 of this Article by a decision, within 60 days starting from the day of receipt of such request.

Decision from paragraph 4 of this Article shall be final.

#### Article 25

If the National Bank of Serbia issues the approval to conduct the voluntary liquidation proceedings, such proceedings shall be conducted in conformity with the Law governing economic organizations.

Legal consequences of the liquidation proceedings shall run from the day of submitting the decision of the National Bank of Serbia from paragraph 1 of this Article, to the legal entity from Article 24, paragraph 1 hereof.

If the National Bank of Serbia rejects the request from Article 24, paragraph 2 of this Law, the proceedings of enforced liquidation, i.e. bankruptcy shall be instituted in conformity with this Law.

The National Bank of Serbia shall perform indirect and direct monitoring over voluntary liquidation proceedings of a bank i.e. other financial organization i.e. insurance company, in conformity with National Bank of Serbia regulations.

If, during the course of performing the monitoring from paragraph 4 of this Article, the National Bank of Serbia determines that the rights of creditors have been put into jeopardy, it shall render a decision on the enforced liquidation of a bank i.e. other financial organization i.e. insurance company, in conformity with the National Bank of Serbia regulations.

### 3. Special provisions

#### Article 26

In the case of liquidation of a mutual insurance company, the assets of such company shall be utilized for reimbursement of deposits to the founders and distribution among the members (insurance clients), in proportion equal to the amount of their contributions paid in the last three years.

#### Article 27

If, upon completion of the liquidation proceedings, certain funds are left over, such funds shall be distributed to the shareholders of the liquidation debtor in accordance with the shareholding rights and in amount proportional to the participation in shareholding capital of the liquidation debtor.

Claims of the creditors, not registered until the date of division of liquidation proceeds, shall be settled upon completion of the liquidation proceedings by entities, on whose behalf the remaining part of the proceeds has been paid after the main division and only up to the value of assets that have been taken over.

The complaint for payment of claims from paragraph 2 of this Article, creditors shall bring against entities to whose benefit the rest of liquidation proceeds have been paid to, no later than within 6 months upon the completion of the liquidation proceedings.

## IV. TRANSITIONAL AND CONCLUDING PROVISIONS

## Article 28

Bankruptcy proceedings and liquidation proceedings of banks initiated according to the Law on Rehabilitation, Bankruptcy and Liquidation of Banks (“Official Gazette of SFRY”, no. 84/89 and 63/90 and “Official Gazette of FRY”, no. 37/93, 26/95, 28/96, 16/99, 44/99 and 53/01) and Law on Enforced Settlement, Bankruptcy and Liquidation (“Official Gazette of SFRY”, no. 84/89 and “Official Gazette of FRY”, no. 37/93 and 28/96), shall continue according to provisions from these Laws.

Bankruptcy proceedings and liquidation proceedings of banks initiated according to the Law on Rehabilitation, Bankruptcy and Liquidation of banks (“Official Gazette of SFRY”, no. 37/93, 26/95, 28/96, 16/99, 44/99 and 53/01) and Law on Bankruptcy Proceedings (“Official Gazette of RS”, no. 84/04), shall continue according to provisions hereof.

If the National Bank of Serbia has revoked operating license from a bank, and if the competent court, until enactment of this Law, has not rendered a decision on instituting bankruptcy proceedings, i.e. liquidation proceedings, such bankruptcy proceedings, i.e. liquidation proceedings of the bank shall be executed according to the provision hereof.

## Article 29

Bankruptcy proceedings of insurance companies initiated according to the Law on Enforced Settlement, Bankruptcy and Liquidation (“Official Gazette of SFRY”, No. 84/89 and “Official Gazette of FRY”, no. 37/93 and 28/96) shall continue according to the provisions of thereof.

Bankruptcy proceedings of insurance companies initiated according to the Law on Bankruptcy Proceedings («Official Gazette of RS», no. 84/04), shall continue according to the provisions thereof.

Liquidation proceedings of insurance companies initiated according to the Law on Settlement, Bankruptcy and Liquidation (“Official Gazette of SFRY”, no. 84/89 and “Official Gazette of FRY”, nos. 37/93 and 28/96) shall continue according to the provisions hereof.

Liquidation proceedings of insurance companies initiated according to the provisions of the Law on Economic Organizations (“Official Gazette of RS”, no. 125/04), shall continue according to the provisions hereof.

If the National Bank of Serbia has revoked license to conduct insurance operations to an insurance company, and if the competent court until enactment of this Law has not rendered a decision on instituting bankruptcy proceedings, i.e. liquidation proceedings, such bankruptcy proceedings and liquidation proceedings of insurance company shall be conducted according to the provisions hereof.

## Article 30

Rehabilitation proceedings initiated prior to the enactment of this Law shall continue according to the provisions of the Law on Rehabilitation, Bankruptcy and Liquidation of banks (“Official Gazette of SFRY”, no. 84/89 and 63/90 and “Official Gazette of SFRY”, no. 37/93, 26/95, 28/96, 16/9, 44/99 and 53/01).

#### Article 31

By the day of enactment of this Law, the Law on Rehabilitation, Bankruptcy and Liquidation of Banks («Official Gazette of SFRY», no. 84/89 and 63/90 and «Official Gazette of FRY», no. 37/93, 26/95, 38/96, 16/99, 44/99 and 53/01), Article 177 and Articles 203-207 of the Law on Insurance («Official Gazette of RS», No. 55/04 and 70/04) and provisions of Articles 202 and 208 of thereof in part regarding the insurance companies shall cease to be valid.

#### Article 32

This Law shall come into effect on the eight day from the day of its publishing in «Official Gazette of the Republic of Serbia».