

INSOLVENCY IN COLOMBIA

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INSOLVENCY PROCEEDINGS LAWS: 1116 of 2006 and 1564 of 2012



Corporate Insolvency Law: 1116 of 2006

- ◆ Companies and Merchants (Natural Persons): Same insolvency proceedings for Micro, SMEs, same requirements, costs, information, same jurisdiction

Judicial Proceedings:

- ◆ Reorganization proceedings
- ◆ Out of court reorganization agreements validated by an insolvency judge
- ◆ Judicial liquidation

Colombian Law for Natural Persons: 1564 of 2012

- ◆ The Colombian system combines payment plans and liquidation proceedings.
- ◆ 1)Negotiation of debts proceedings
- ◆ 2)Validation of private agreements proceedings
- ◆ 3)Liquidation of the estate proceedings

Negotiation of debts proceedings:

- ◆ Nature: Hybrid extra-judicial/judicial system (judicial just for dispute resolution in a collective procedure)
- ◆ Competence: Conciliation Centers and Notaries
- ◆ Insolvency Representatives: Conciliator and Public Notary (same conciliators from enterprise insolvency)
- ◆ Access: Only the debtor can initiate the insolvency proceedings

Negotiation of debts proceedings:

- ◆ Time Frame: 60 days, extendable for 30 more days.
- ◆ Insolvency Test: cessation of payments
- ◆ Goal: to approve a Repayment plan in a hearing, by more than 50% affirmative votes in regard to the debt, maximum 5 years term.

Validation of Private agreement proceedings:

- ◆ Nature: Hybrid extrajudicial/judicial system (judicial just for dispute resolution in a collective procedure)
- ◆ Competence: Conciliation Centers and Notaries
- ◆ Insolvency Representatives: Conciliator and Public Notary (same conciliators from enterprise insolvency)
- ◆ Access: The debtor and creditors who represent more than 60% of the debt, can initiate the insolvency proceedings

Validation of Private agreement proceedings:

- ◆ Insolvency Test: Does not require insolvency of debtor (cessation of payments) as a condition to access, the law only requires 120 days to become insolvent
- ◆ Goal: validate the repayment plan in a hearing.
- ◆ Effect: Relief

Liquidation of the estate proceedings:

- ◆ Nature: judicial Procedure
- ◆ Competence: Civil judge (“municipal”)
- ◆ Insolvency Representatives: Liquidator (same for business insolvency) list from Superintendency of Companies
- ◆ Access: As a consequence of the failure or breach of the agreement (repayment plan)

Liquidation of the estate proceedings:

- ◆ Goal: To liquidate the estate (relating to existing property at the time when the liquidation proceedings is commenced)
- ◆ The debtor's assets are available for distribution among creditors, except for the **family home** (execution is available exclusively for the acquisition lender limited to the mortgage value, and the rest of the value goes to pay the other creditors)

Liquidation of the estate proceedings:

- ◆ Discharge: for re-establishing the debtor's economic capability, It functions as a straight discharge, except debts for maintenance obligations to children. The system prohibits the discharged debtor from initiating another liquidation proceedings for 10 years from the conclusion of the insolvency case.