

LAW ON BANKRUPTCY

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SECTION I

G'EKU PROVISIONS

Article 1. Objectives of the law on bankruptcy The law on bankruptcy aims at solving any enterprise going on the financial failure situation, to protect the interests of the State, the creditors, the enterprise debtor, the release of credit, to preserve order for the business operation, to promote the investment and contribute further to socio-economic development.

Article 2. Bankruptcy station of the enterprises Enterprise facing the bankruptcy is the enterprise experiencing the financial difficulties or big loss in the conducting of its business although any necessary financial measures have been performed the debt cannot still be paid according to the term set forth.

Article 3. Jurisdiction of the law This law applies to any enterprise coping with bankruptcy related situation which locates or conducts its business in Lao PDR either by itself or through its representative.

Article 4. Lawsuit and petition for bankruptcy
When an enterprise is facing the bankrupt situation, the creditor can file a lawsuit against the enterprise or the enterprise itself can request the court to decide on the bankruptcy.

SECTION II

LAWSUIT OR PETITION FOR BANKRUPTCY

Article 5. Conditions on lawsuit or petition for bankruptcy
The lawsuit or petition for bankruptcy of an enterprise will become effective when such enterprise suffers a debt and cannot pay or the creditor sent the financial claim to that enterprise debtor at least three times with a minimum of twenty days in between and the enterprise debtor acknowledges the claim. but cannot pay.

If the enterprise that is coping with financial difficulties and anticipates the nonpayment of debt can file for bankruptcy of its enterprise.

Article 6. Lawsuit filed by the creditor Application for lawsuit filed by the creditor consists of . 1. an application including full name and address of the applicant, name and location of the enterprise for which the lawsuit for bankruptcy is filed; 2. the financial claims and the debt acknowledgment issued by such enterprise stating that they cannot pay the debt on time.

The applicant requesting the court to determine the bankruptcy of such enterprise shall pay the court fees according to the law on court fees

Article 7. Petition for bankruptcy of the enterprise . Petition for bankruptcy of the enterprise consists of 1. an application including name and location of the enterprise, full name of the owner of the enterprise or of his representative; 2. Document certifying the measures used to solve difficulties in the past; 3. Memorandum of the General Assembly of the enterprise approving the petition for court decision on the bankruptcy of the enterprise. For the enterprise of one individual ownership or a limited company of one partnership the memorandum of such kind is also needed. 4. A list of creditors with the debts amount, a balance sheet and a yearly report of the enterprise during the last two years. If the enterprise does not operate up to two years, the balance sheet and the report on the enterprise activities during its business operating is satisfactory.

The applicant requesting the court to determine the bankruptcy of his enterprise shall pay the court fees according to the law on con.: fees.

Article 8. Lawsuit or the petition depository The court will accept the application for bankruptcy when the claimant is the creditor or its representative duly authorized in writing and the application must be in line with the article 6 hereof With respect to the application for bankruptcy filed by the enterprise itself the same is applied in accordance to article 7 hereof

Article 9. Responsibilities of the petitioner In case that the petitioner for the enterprise bankruptcy does not have reason and has the intention to injure the defendant, the petitioner will be subject to the court of law.

Article 10. Duration of the lawsuit or the application The court must notify the petitioner of its decision within 7 days starting from the date of deposition of the application. In case the court considers the petition, the latter shall notify the enterprise concerned along with the copy of the petition in writing.

The enterprise in question shall within 7 days after receiving the court notice submit the report certifying his ability to pay debt.

The court must within 35 days after the date of deposition hold the hearing on the case. With respect to the application for bankruptcy filed by the enterprise itself, the court must within 7 days after accepting the deposition notify in writing the creditor and decide on the hearing date. Such hearing shall be occurred within 35 days starting from the date of deposition.

SECTION III

PROCEDURE ON LAWSUIT OR PETITION FOR BANKRUPTCY

Article 11. The cancellation or acceptance of the lawsuit or the petition. During the court process on the bankruptcy filed by the creditor or by the entrepreneur if the court discovers that the lawsuit or petitioner is not justified due to insufficient of evidences can proclaim the cancellation or the acceptance of the lawsuit or petition. The claimant or the

petitioner has the rights to appeal the case within 15 days following the date of acknowledgment of the court decision.

Article 12. Mediation between the creditor and the enterprise debtor The enterprise that suffers the bankrupt situation can request the court to order the mediation. If the court finds it is appropriate, it shall appoint a mediator to solicit a period of grace for the debt payment between the principal creditor and the enterprise.

Article 13. Result of the mediation

If the creditor and the enterprise debtor can agree upon the mediation and the enterprise debtor can achieve the mediation memorandum, the enterprise debtor shall be free to continue its activities and the petition will be over.

In case of no mediation taken place or non conformity with the mediation memorandum, the court shall determine the closing date for debt payment, appoint the jury in order to decide on the bankruptcy of the enterprise in question and nominate the Assets Control -Committee.

Article 14. Rights and duties of the court To decide on the bankruptcy of an enterprise, the court is invested with the following rights and duties: 1. collect evidences in order to deliberate the bankruptcy of the enterprise; 2. follow up and monitor the activities of the Assets Control Committee; 3. if necessary, take provisional measures to assure the security of the enterprise debtor; 4. control the creditors' meeting; postpone or cancel the decision on the bankruptcy of the enterprise debtor; 6. declare bankrupt for the enterprise debtor;

Article 15. Assets Control Committee

The Assets Control Committee consists of

1. an officer of the provincial or municipal tribunal to be named Chief;
2. representative of the creditors;
3. representative of the enterprise debtor;
4. representative of the provincial or municipal Trade Union;
5. representative of the workers of the enterprise;
6. official from the financial organization.

Article 16. Control of the assets Following the court decision on the control of the assets of the defendant enterprise debtor, the enterprise is allowed to conduct its activities. However, its operation shall fall under the control and monitoring of the court and the Assets Control Committee, with no rights to conceal or transfer of the assets, no rights to sale or assign the assets for other purposes. The contributors of capital of the defendant enterprise must totally contribute its share within 15 days commencing the date the contributor is notified of the control of the assets.

Article 17. Controlled assets for the payment of debt. Controlled assets of the enterprise for the payment of debt are all assets owned or administered by the enterprise and consist of 1. movable and fixed assets of the enterprise including lending and loaned assets; 2. cash and capital assets; 3. accounts receivable of the enterprise.

With respect to private enterprises or limited companies that were declared bankrupt by the court, the controlled assets shall exclude personal belongings and production means necessary for the subsistence of the debtor totaling not exceeding two hundred thousand kip.

Article 18. Rights and duties of the Assets Control Committee The Assets Control Committee has the following rights and duties: 1. set up an inventory of all assets of the enterprise debtor; 2. monitor and control the assets of the enterprise debtor. If necessary, such committee is authorized to exercise necessary and urgent measures in order to preserve the assets of the enterprise debtor. ' 3. set up the list of the creditors and amount to be paid to the creditors; 4. notify the public of the controlled assets of the enterprise debtor along with date and time allowed the creditors to claim for the debt.

The Assets Control Committee is responsible for their activities in front of the court. Any necessary expenditure as a result of the activities of the Assets Control Committee shall be borne by the enterprise debtor.

Article 19. Meeting of the creditors The participants to the meeting of the creditor consist of 1. the creditors including in the list or their representatives; 2. representative of the enterprise debtor; 3. representative of the provincial or municipal Trade Union; 4. representative of the workers of the enterprise debtor.

Article 20. Convocation of the meeting of the creditors The meeting of the creditors is convened by the Assets Control Committee or at the request of the creditors representing 1/4 of the total debt.

The invitation to the meeting as well as its agenda shall be sent to the participants at least 3 days ahead of the meeting.

The meeting of the creditors shall be considered valid if the creditors participate more than half representing at least 2/3 of the total debt.

Article 21. Responsibilities of the meeting of the creditors The meeting of the creditors invest with the following rights and duties: 1. pass the rehabilitation programme of the enterprise and reorganize the operation of the business; ?. propose and submit comments to the court concerning the assets distribution of the enterprise in case that the rehabilitation programme does not receive approval.

Article 22. The postponing of the meeting of the creditors The meeting of the creditors will be postponed in the following cases: 1. the creditors participating to the-meeting do not reach the number more than 1/2 and do not represent 2/3 of the total debt. 2. the majority of the participating creditors which represent 2/3 of the total debt decide to postpone the meeting.

Article 23. Obligations of the enterprises with regard to the meeting of creditors. At the meeting of creditors, the entrepreneur or his/her representative has the duty to explain the programme for mediation and other method regarding the re-organization and reorientation of the business of the enterprise, to clarify other relevant problems emerged during the meeting of creditors. In case that the entrepreneur or his representative cannot attend the meeting due to engagement, the entrepreneur shall assign anyone to attend the meeting on his behalf The assignee to the meeting

shall invest with the authority and duties as held by the entrepreneur or his representative. In case the owner of private

enterprise is deceased his successor shall attend the meeting.

Article 24. Decision of the meeting of creditors The meeting of creditors shall decide upon one of the three following forms: 1. rehabilitation 2. sale out 3. bankruptcy and liquidation.

Article 25. Resolution of the meeting of creditors The resolution of the meeting of creditors shall be valid when it is approved by creditors that represent $\frac{2}{3}$ of the total debt.

SECTION IV REHABILITATION OF THE ENTERPRISE

Article 26. Obligations of the entrepreneur or his representative.

The entrepreneur or his representative is responsible for the implementation of the rehabilitation programme according to the court decision.

Article 27. Rights and duties of the creditors. The creditors is responsible for the execution of the court decision and the follow up of the rehabilitation of the enterprise debtor

Article 28. Transfer of assets

All assets necessary for assuring the continuity of the enterprise debtor are prohibited of all sale or transfer if not duly authorized by the court.

Article 29. Amendment of the enterprise rules and regulations. The rules and regulations of the rehabilitated enterprise may be renovated in accordance with the rehabilitation programme.

Article 30. Augmentation of capital In order to follow up with the rehabilitation programme it may deem necessary to increase more capital of the enterprise. The augmentation of capital shall conduct as the following prescribed forms:

1. Increase the share values;
2. Transforming the creditors to the contributors;
3. Increase the share holdings;
4. Loan.

Article 31. Duration of the rehabilitation.

The duration of the rehabilitation shall not exceed 2 years following the rehabilitation programme thus approved by the court. During the implementation of the rehabilitation programme the enterprise must pay its debt as prescribed by the rehabilitation programme.

Article 32. Court order. After the rehabilitation, if the enterprise can effectively conduct the business, the court shall order the continuity of the activities. If the enterprise cannot revive the court shall therefore order the bankruptcy.

During the implementation of the rehabilitation, the court can at any time declare bankrupt of such enterprise if it is found that the enterprise will not be able recovered.

SECTION V

SALE OF BUSINESS

Article 33. Sale of business Starting from the date the court orders the administration of all assets of the enterprise debtor, individual or legal entity can submit proposal for the purchase the enterprise, partially or as a whole.

In case of partial purchase, the court must determine in details which assets shall be approved for sale. .

Article 34. Condition of the purchases The court must identify and select the potential purchaser which has purchase power in accordance with the time frame set forth. The purchaser may sell or transfer the assets of the enterprise to other people provided the payment for the purchase of the business has been fulfilled.

SECTION VI

BANKRUPTCY AND LIQUIDATION

Article 35. Decision for the bankruptcy The court shall order the bankruptcy of an enterprise in one of the following cases: 1. The entrepreneur or his representative does not have the rehabilitation programme of the enterprise; 2. The entrepreneur or his representative cannot observe the article 23 hereof; 3. The meeting of creditors does not approve the rehabilitation programme;

The duration of the rehabilitation programme is expired but the enterprise still does not make profit and the creditors request the court to decide on the bankruptcy as well; 5. The enterprise brazenly violates the court order during its implementation of the rehabilitation programme. 6. The entrepreneur flees the country or is deceased and his successor refuses to inherit or there is no successor during the court process on bankruptcy of the enterprise.

Article 36. Court decision The court decision on bankruptcy consists of the necessary and important details as mentioned hereunder:

1. Tribunal name, full name of the judge who issues decision on the bankruptcy of the enterprise.
2. Date and petition number for the bankruptcy of the enterprise.
3. Name and registration number of the enterprise.
4. Decision date on which the bankruptcy is pronounced.
5. Causes for which the bankruptcy is decided on.
6. Distribution plan of the enterprise assets.

Article 37. Appeal on the court decision

The creditor, the entrepreneur or his representative is authorized to appeal the court decision concerning the bankruptcy of the enterprise within 15 days commencing the date of acknowledgment of such decision.

Article 38. Appointment of Liquidation Board

The court will appoint the Liquidation Board that consists of:

1. law clerk to be chairman of the board.
2. representative of the financial organization
3. representative of provincial or municipal bank
4. representative of the creditors
5. representative of provincial or municipal Trade Union .
6. representative of workers at the enterprise debtor
7. representative of the enterprise debtor

Article 39. Rights and duties of the Liquidation Board The Liquidation Board has the following rights and duties:

1. inspect the assets and liabilities of the enterprise;
2. acquire the assets and other relevant documents from the Assets Control Committee;
3. cancel the fraudulent contract establishing by the enterprise;
4. amass the assets of the enterprise;
5. sale the assets of the enterprise by tender,
6. distribute assets to the creditors;
7. distribute the remaining assets out of debt payment to the entrepreneur or to the contributors of the enterprise;

Necessary expenses derived from the liquidation must be borne by the enterprise debtor.

Article 40. Cancellation of the contract or invalidity documents To gather the assets of the enterprise for the purpose of effective debt payment, the Liquidation Board has the rights and duties of inspection, cancellation of the contract or former documents established prior to the court decision on the control of the assets of the enterprise debtor such as: 1. the sale of assets for under priced items; 2. the guaranty for old debt; 3. the signing the contract or transfer of assets to relatives, friends or the letting use of the enterprise assets by others.

Article 41. Assets gathering of the enterprise debtor. The Liquidation Board must gather the following assets of the enterprise. 1. Assets of the enterprise such as: land, house, warehouse, factory, means of production and stock on hand at the warehouse, 2. all accounts receivable of the enterprise. After gathering all assets, the Liquidation Board has the rights and duties to sale those assets by tender.

Article 42. Obligations of the debtor Subsequent to the court decision on the bankruptcy, the enterprise debtor has the obligations of cooperation with the Liquidation Board concerning the implementation of the court decision. ' The debtor may, if necessary, leave the jurisdiction territory or flee the country with appropriate guaranty and with authorization of the court that issues the decision on the bankruptcy.

In case the court receive report and find out that the debtor will leave the jurisdiction territory or flees the country, the court is capable of ordering the arrest of the debtor.

Article 43. Pronouncement of bankruptcy 10 days after the effective date of the court decision on the bankruptcy of the enterprise, the judge must put the notice concerning the bankruptcy of the enterprise to be known by the public via the mass media for 3 consecutive days and at the same time must sent copies of the court decision on the bankruptcy of the enterprise to:

1. law clerk office;
2. the creditors and the owner of the. bankrupt bankrupt enterprise;
3. financial organization;
4. Trade Union;
5. enterprise registration office;
6. bank;
7. chamber of commerce and industry;
8. economic police department.

Article 44. Distribution of assets to the creditors When the gathering of assets and the collecting of accounts receivable of the enterprise are done, the Liquidation Board will then proceed on the distribution of such assets to the creditors with priority as follow: 1. Wages and salary of workers; 2. obligation to the state; 3. guaranteed debt; 4. unguaranteed debt; The payment of debt is to fully pay the first priority and then proceed with the next and so on. For the debts of same level, and the assets to be paid are not sufficient it is therefore must pay out proportionately.

Article 45. Distribution of the remaining assets If the assets remains after the payment to debtor, the assets should distribute to the contributors according to profit sharing or distribute to the owners of the enterprise.

Article 46. Inspection of the liquidation The Liquidation Board must inform regularly the court that appoints the Board, the creditors and the owners of the enterprise of its activities performed since appointment.

The creditors or the owners of the enterprise can criticize or file a claim with the court regarding the irregularities of the Liquidation Loard.

SECTION VII

MEASURES TAKEN TOWARD THE VIOLATORS

Article 47. Violations occurred prior to the control of assets

If the Assets Control Committee discovers that prior to the petition for bankruptcy, the directors of the enterprise concealed documents on financial matters and assets, moved and transferred the assets or increased false liabilities, established flaw contract for non guaranteed debt, canceled or decreased the rights of accounts receivable of the enterprise, the directors in question shall be subject to the prosecution.

Article 48. Breach during the control of assets Since the court issue the decision to take over the control of the enterprise debtor, if the responsible of the management of the enterprise still

accepts loan from creditors without informing them that his own assets were taken control or were being subject to the court decision for bankruptcy and were also conducting the business under a new name or under another businessman's name, the latter shall be subject to the court of law.

Article 49. Prohibition of taking employment The Chairman, members of the Executive Board or the Directors of the bankrupt enterprise will not allow to be assigned as Chairman, members of the Executive Board or the Directors of other enterprises of either entities within the period of 3 years with effect from the date the court pronounces the bankruptcy. Exception is made for the State enterprises and enterprises which voluntarily request the court to order the bankruptcy of the enterprise and can pay the debt in full.

Article 50. Measures taken toward the Assets Control Committee and the Liquidation Board If the Assets Control Committee or the Liquidation Board commit infraction during the performance of their duties the court can revoke the member of any committee or board as individual or as a whole if it is found that such person is guilty. The court then decides on the case and hold the concerned person responsible for damage caused by his act and appoints anew person or the whole committee in replacement.

In case that the Controller or the Chairman of tire Liquidation Board is strongly found guilty they shall be subject to the court.

SECTION VIII TERMINATION OF THE LIQUIDATION AND THE SURVIVAL OF THE BANKRUPTCY

Article 52. Termination of the liquidation The liquidation of the bankrupt enterprise pronounced by the court shall be considered close in one of the following cases: 1. the court can mediate and has the creditor and debtor friendly settled down the problems; 2. the Liquidation Board has fulfilled their duties by distributing fully the assets to the creditors or debtor does not possess assets to be distributed anymore;

After the liquidation is close, the court must notify the enterprise registration office in order to delete the name of the bankrupt enterprise from the company registry and lets it be known to the public by means of mass media.

Article 53. Reopening the liquidation The creditor or debtor is authorized to request the court for considering the closing of the liquidation of the bankrupt enterprise within 15 days commencing the date the court closes the liquidation. If the court find out that the request is reasonable enough the liquidation process will be open once again.

Article 54. Survival of the bankruptcy The court can declare the owner of the bankrupt enterprise the survival of the bankruptcy when the court receives the request from the latter with document certifying that he had fulfilled the payment and had completed the sentence.

SECTION IBC

FINAL PROVISIONS

Article ». Implementation The Government of the Lao People's Democratic Republic will issue decree to enforce this law.

Article 56. Validity This law enters into force 30 days following its promulgation by Decree of the President of the Lao People's Democratic Republic.

Vientiane, 14/ 10/94

President of the National Assembly,
S aman VIYAKET