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Out-of-court bankruptcy of citizens

In the second and third readings, a draft law was adopted on amending Federal Law No. 127-FZ "On Insolvency (Bankruptcy)". One of the main innovations is the out-of-court bankruptcy of the debtor.

Out-of-court bankruptcy of citizens is a completely free procedure for the debtor, the result of which will be the recognition of debts as hopeless for collection. The absence of payment for this procedure is due to the fact that it was decided not to give this procedure to work by an arbitration manager and a notary. The MFC will be engaged in this procedure, where the citizen will need to apply.

To begin with, we will mention the criterion that a citizen will need to meet in order to provide him with this procedure: the size of his monetary obligations, as well as obligations to pay mandatory payments, must be at least fifty and not more than five hundred thousand rubles. Moreover, a prerequisite in this situation will be the completed enforcement proceedings against the citizen, the return of the executive document to the recoverer in accordance with clause 4 of part 1 of article 46 of the Federal Law "On Enforcement Proceedings» there should be no enforcement proceedings on the returned executive document to the claimant.

Let's go back to the multifunctional centers - this is where the procedure for the out-of-court bankruptcy of a citizen will begin. A citizen must apply to the multifunctional center at the place of residence or place of residence with a corresponding application. In this application, a citizen must list all creditors known to him, as well as the amount of obligations (debt) to them. The form of presentation of creditors known to the citizen is similar to the form established by par. 3 p. 3 art. 213.4 of the Federal Law "On Insolvency (Bankruptcy)".

Further, the multifunctional center, within one working day from the moment of filing the application, checks the citizen for compliance with the criteria, and then within 3 working days places the relevant information on the EFRSB.

From the day the information on the out-of-court bankruptcy of a citizen is included in the EFRSB, a ban is introduced to satisfy the claims of creditors, and the accrual of penalties, fines, penalties, as well as interest on all obligations of a citizen is stopped. However, this does not apply to debts that the applicant did not indicate in his application, and debts for alimony, compensation for moral damage, claims for compensation for harm caused to life or health, etc.

In the process of out-of-court bankruptcy proceedings, a citizen cannot take new loans or act as a surety. If a citizen acquires ownership of any property or "other significant change" in his property status, the citizen is obliged to convey this information to the multifunctional center, the latter terminates the extrajudicial bankruptcy procedure by including this information in the EFRSB within three working days.

Lenders, whom the citizen indicated in his application, will have the opportunity to apply to the state registration authorities through the system of interdepartmental electronic interaction, a request for the presence of registered property rights or property. The request form, terms and procedure for providing information have not yet been determined.

It is worth noting that this bankruptcy can also be transferred to a court: a creditor not indicated by a citizen in an application, a creditor whose debt to which is understated in order to fall into the maximum amount of debt (500,000 rubles) can apply to an arbitration court with an application for recognizing such a citizen bankrupt.

Please note that if a citizen is returned to a citizen of his application for recognition of bankruptcy out of court, the citizen can re-apply with the same application to the multifunctional center no earlier than one month from the date of return of the application. The return can also be appealed in the arbitration court at the place of residence of the citizen.

Also, a repeated procedure for bankruptcy of a citizen out of court is envisaged, but not earlier than 10 years after the day of termination of the previous procedure for bankruptcy of a citizen out of court.

For detailed explanations, you can always contact the experts of the GRATA International bankruptcy practice.

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