

Act on Debt Mitigation for Individuals

CHAPTER I

General provisions

Article 1

Objectives of the Act

The objective of this Act is to enable individuals in severe financial difficulties to restructure their finances and establish a balance between their debts and payment capacity so that debtors can realistically fulfil their obligations for the foreseeable future.

Upon meeting the conditions set forth in this Act, individuals are authorised, following provision of documentation, to request that the Debtors' Ombudsman approve an application to seek voluntary debt mitigation with creditors. Such debt mitigation can apply both to claims secured with lien rights in a debtors' assets and claims for which there is no such collateral or only to claims of one of these types.

Article 2

Who can seek debt mitigation

An individual who demonstrates that he/she will be incapable for the foreseeable future of fulfilling his/her financial obligations may seek debt mitigation as provided for in this Act.

An individual is considered incapable of fulfilling his/her financial obligations if the individual can be expected to be unable to fulfil or to have substantial difficulties in fulfilling his/her financial obligations in the foreseeable future, considering the nature of the debts and the debtor's assets and financial and social circumstances in other respects.

Married or co-habiting couples can jointly seek debt mitigation.

Only those persons who are legally domiciled and resident in Iceland can seek debt mitigation as provided for in this Act. Derogations may be made from this requirement, however, if:

- a. the person seeking debt mitigation is an Icelandic citizen residing abroad temporarily to study or work or due to illness, provided that this person only seeks mitigation of obligations incurred in Iceland to creditors domiciled here, or
- b. debt mitigation is only intended to cover mortgage claims against real estate in Iceland, and provided its owner is an Icelandic national residing abroad temporarily to study or work or due to illness.

Article 3

Claims covered by debt mitigation

Debt mitigation covers all claims against a debtor other than those listed below:

- a. claims which have arisen after an application for debt mitigation has been accepted;
- b. claims for non-monetary claims which will be satisfied according to their main claim;
- c. claims which would enjoy a status as provided for in Articles 109, 110 or 112 of the Act on Bankruptcy etc. if a debtor's estate had been placed in liquidation on the date the debtor's application for debt mitigation was accepted;
- d. claims which would be satisfied by set-offs if a debtor's estate had been placed in liquidation;
- e. claims for insignificant amounts which are specifically exempted from the effects of debt mitigation by being paid in full;

- f. fines which have been levied by a court verdict or by authorities or with a settlement prior to the acceptance of an application for debt mitigation, claims for unpaid VAT, claims for unpaid taxes and levies withheld and claims for compensation due to damages which according to a court verdict were the result of punishable behaviour;
- g. debts due to students' loans, with the exception that upon debt mitigation it may be decided to cancel instalments and interest on them during the debt mitigation period;
- h. accumulated debts owed to public bodies due to child support; accumulated debts shall be handled as provided for in the concessionary provisions of the Act on the Child Support Collection Centre, No. 54/1971.

The debtor's creditor can relinquish its rights as referred to in the first paragraph, so that debt mitigation will affect its claim; this must be done in a written statement drafted in preparation for an application for debt mitigation or while negotiations for the same are underway.

Such a statement may be made subject to the condition that it will only involve a final relinquishing of rights if debt mitigation is successful.

Debt mitigation shall result in the cancellation of debts which would be ranked in priority in accordance with Art. 114 of the Act on Bankruptcy etc. if the debtor's estate had been placed in liquidation.

Debt mitigation may provide for complete cancellation of individual claims, their proportional reduction, postponement of them, changes to terms, their payment with a share of the instalment amount to be paid at specified intervals during a specific period, changed form of payment of claims or all of the above.

CHAPTER II

Authorisation to seek debt mitigation

Article 4

Application for debt mitigation

The debtor shall file an application for debt mitigation with the office of the Debtors' Ombudsman. The application must include the following:

1. the debtor's full name, Id. no., legal domicile and residence, if other than his/her legal domicile;
2. information giving a breakdown of the debtor's assets;
3. information giving a breakdown of the amount of debts already due, as well as the amounts of debts and guarantees not yet due and, as appropriate, information on their terms of repayment, due dates, interest and indexation;
4. the debtor's income, whether this income derives from employment or from other sources; information on the contractual agreements or other aspects determining this income; and whether there is a prospect for changes in the debtor's income or employment situation. Furthermore, it must be stated whether the debtor will have funds other than employment income with which to pay debts, such as the proceeds of asset sales or financial contributions from others;
5. whether the debtor has borne unlimited liability for commercial activities, either alone or together with others, and if so, how large a proportion of the debts stems from those commercial activities;
6. the debtor's estimate of his/her average monthly expenditure, including living expenses, public levies, housing expenditure, and debt service;
7. the debtor's estimate, having regard to the above, of how much he/she can pay per month towards the fulfilment of the obligations;

8. the debtor's description of what has caused his/her indebtedness and why he/she cannot satisfy these obligations in full or does not envision being able to do so;
9. whether any measures have been taken that could be voidable if the debtor's estate were liquidated;
10. any guarantors, pledgers and co-debtors, and whether the debtor is responsible for obligations of others;
11. a declaration authorising the Debtors' Ombudsman to verify the information provided and to gather further information without impedance from obligations of confidentiality on the part of those possessing such information, if deemed necessary.

Information as provided for in the first paragraph shall also be provided for the debtor's spouse and others residing with the debtor.

The application shall be accompanied by documents corroborating the information in the application, as well as a certificate of marital and family status and the debtor's last four income tax returns.

A debtor shall be entitled to assistance without charge from the Debtors' Ombudsman in drafting an application for debt mitigation and gathering documentation as provided for in this Act. A debtor must, however, as a rule obtain the necessary documentation him-/herself and deliver this to the Debtors' Ombudsman.

The Debtors' Ombudsman shall, after receiving the consent of the debtor and, as the case may be his/her spouse and other household residents, cf. the second paragraph, obtain the necessary documentation from public bodies and known creditors. These parties are obliged to send the Debtors' Ombudsman the documentation requested.

Article 5

Obligation of the Debtors' Ombudsman to investigate

The Debtors' Ombudsman shall ascertain that the debtor's application contains all of the information required and may, if necessary, demand that the debtor confirm the information with written documents.

The Debtors' Ombudsman shall also gather further information considered to be of possible significance concerning the debts, assets, income and conduct of the debtor before deciding whether to authorise the debtor to seek debt mitigation. In such case, the debtor must be informed, as provided for in Art. 21 of Act No. 77/2000, on the Protection of Privacy as regards the Processing of Personal Data, of the obligation of responsible parties to inform when information is obtained by parties other than the registered person. If necessary, the Debtors' Ombudsman may summon the debtor or other parties concerned to a meeting to obtain information.

Article 6

Circumstances which may prevent authorisation of debt mitigation

Authorisation for debt mitigation shall be refused if:

- a. the available data do not indicate that the debtor fulfils the requirements of this Act for debt mitigation;
- b. the available data do not provide a sufficiently clear picture of the debtor's financial situation or the expected development of the debtor's financial situation during the debt mitigation period;
- c. the circumstances surrounding the establishment of debt, or later actions taken by the debtor, suggest unequivocally that the debtor has conducted himself in a dishonest manner to be able to seek debt mitigation;

- d. the debtor has, either deliberately or through gross negligence, provided incorrect or misleading information on circumstances significant to the case; or
- e. the debtor has previously had debt mitigation approved or debt mitigation through composition. The Debtors' Ombudsman may, however, approve an application in such instances if special circumstances exist.

Authorisation for debt mitigation may also be refused if it is considered unsuitable to grant such. In evaluating such a situation, particular consideration shall be given to whether:

- a. the major portion of the debt has been established recently and does not represent normal borrowing for re-financing or for the purchase of necessary residential housing;
- b. the debts were undertaken at a time when the debtor was clearly incapable of fulfilling his/her financial obligations;
- c. a debtor has conducted his/her financial affairs in a very objectionable manner or taken on financial risk incommensurate with his/her financial position at the time the financial obligation was undertaken;
- d. the debtor has incurred an obligation which is significant relative to his/her financial situation as the result of behaviour subject to penalty or compensation for damages.
- e. the debtor has engaged in investments or taken actions that would have been voidable in liquidation proceedings;
- f. the debtor has, in an objectionable manner, neglected to do his/her utmost to fulfil the obligations;
- g. the debtor has in an objectionable manner undertaken immoderate obligations or his/her debts are of such nature that it is obviously unfair to allow them to be covered by debt mitigation.

Article 7

Decision on debt mitigation

The Debtors' Ombudsman shall take a decision on dealing with a debtor's application within two weeks of the time a complete application is available.

If the Debtors' Ombudsman approves the application, he/she must inform the debtor of the obligations referred to in Article 12.

A decision by the Debtors' Ombudsman to approve an application cannot be appealed. If the Debtors' Ombudsman refuses a debtor authorisation to seek debt mitigation, the debtor can appeal this decision to the Payment Mitigation Appeals Committee within one week of receiving notification of the decision of the Debtors' Ombudsman.

A debtor may at any time during the period of seeking debt mitigation withdraw an application for debt mitigation, in which case the time limit provided for in Art. 11 shall be cancelled. If a supervisor has been appointed, the supervisor shall notify known creditors of the debtor's decision to withdraw the application. If no supervisor has been appointed, the Debtors' Ombudsman shall give notice thereof.

Article 8

Debt mitigation negotiation period

The debt mitigation period begins with the approval by the Debtors' Ombudsman of a debtor's application for debt mitigation and can last for up to three months.

CHAPTER III

Commencement of negotiations on debt mitigation

Article 9.

Appointment of supervisor

If the Debtors' Ombudsman has approved a debtor's application to seek debt mitigation, he shall immediately appoint a debt mitigation supervisor. The supervisor may be an employee of the office of the Debtors' Ombudsman, who holds a professional legal qualification of a master's degree in law, or another attorney engaged by the Debtors' Ombudsman for the task.

Article 10

Invitation to creditors to lodge claims

The supervisor shall, immediately following his/her appointment, issue and have published twice in the *Legal Gazette* (Icel. *Lögbirtingablaðið*) an invitation to those parties who consider themselves to have claims against the debtor to lodge the claims with the supervisor within four weeks of the first publication of the invitation.

If a creditor enjoys lien rights or a guarantee of another party for a claim against the debtor, without such lien or guarantee applying to a specific debt, the creditor must specify in lodging its claim what debt it should apply to.

A claim not properly lodged shall be included in the debt mitigation but the creditor in question may not participate in negotiations on debt mitigation.

Known creditors, including guarantors and co-debtors shall be informed of the initiation of debt mitigation negotiations by the supervisor sending them a copy of the invitation to lodge claims. Information shall also be provided on what claims the debtor has disclosed for the creditors concerned and on postponement of payments, as referred to in Article 11.

Article 11

Moratorium during debt mitigation negotiations

Once the Debtors' Ombudsman has approved an application for debt mitigation, cf. Article 8, a temporary moratorium on payment shall begin, cf. however, the third paragraph. During the moratorium a creditor may not:

- a. demand or accept payment of its claims;
- b. accelerate debts in accordance with contractual covenants;
- c. subject the debtor's assets to distraint, seizure or impoundment or have them sold at forced auction;
- d. have the debtor's estate placed in liquidation;
- e. refuse to deliver against cash payment or suitable collateral such goods or services as the debtor requires for his/her own support or that of household residents due to previous defaults;
- f. demand payment from a guarantor of the debtor.

Interest shall accrue during the moratorium but shall not be due and payable. Interest on claims secured by a charge on an asset which the debtor is allowed to retain shall become payable, however, in accordance with contractual agreements, to the extent that the charge corresponds to the value of the pledged asset.

Postponement of payment shall not cover claims arising after authorisation to seek debt mitigation has been granted.

Article 12

Debtor's obligations during debt mitigation

While debt mitigation is sought, a debtor must:

- a. set aside, from wages and other income, any funds in excess of those required by the debtor to support him-/herself and family;

- b. terminate leases and other contractual agreements entailing future expenditure which are not related to goods and services necessary for the support of the debtor or his/her household or for normal household operation;
- c. not deliver or pledge assets and valuables that could be useful to creditors as a form of payment;
- d. not undertake new debts or take other measures which could damage creditors' interests.

If a supervisor is of the opinion that a debtor has failed to fulfil his/her obligations as referred to in the first paragraph, the supervisor shall request that the Debtors' Ombudsman cancel debt mitigation negotiations, as provided for in Article 15.

Article 13

Sale of the debtor's assets

The supervisor may decide to sell those of the debtor's assets that he/she considers, in fairness and having regard for the debtor's payment capacity and family circumstances, that the debtor can do without. If the supervisor sees reason to do so, he/she may seek the opinion of creditors before taking such a decision.

Assets must be sold in such a manner as to maximise the value obtained. The supervisor shall decide how the sale will take place and shall personally handle the sale or entrust it to another party. The debtor is obliged to handle the sale him-/herself if the supervisor so decides.

The supervisor shall notify holders of liens on the debtor's asset of the decision to sell it with at least two weeks' notice. Once a bid has been received for the asset which the supervisor deems possible to accept, the supervisor must without delay inform those lien holders who would not receive satisfaction of their claims from this sale price and give them the option of making a higher bid or, as appropriate, equal the bid. Lien holders shall have a time limit to take such action as long as the bid is binding upon the bidder.

Once the sale is concluded, any lien rights not covered by the proceeds of the sale shall be cancelled. The supervisor shall request that the liens be removed upon provision of a confirmation from the Debtors' Ombudsman that a debtor's application for debt mitigation has been approved, the supervisor's statement that sale of the asset was undertaken as part of debt mitigation and a copy of the sales contract.

If the debtor does not comply with the supervisor's decision as referred to in the first paragraph or if the debtor in some way prevents the proposed sale of assets, the supervisor shall request that the Debtors' Ombudsman cancel the debtor's debt mitigation negotiations, as provided for in Article 15.

Article 14

Valuation of assets retained by the debtor

The supervisor shall if necessary obtain a valuation of those assets which a debtor is not required to sell.

A creditor who is unsatisfied with a valuation obtained by the supervisor may, at its own expense, obtain a court-appointed person to assess the value of the property. If such an assessment is obtained it shall serve as the conclusion concerning the value of the property.

Article 15

Cancellation of debt mitigation negotiations

If information is disclosed which may be expected to preclude authorisation of debt mitigation on the basis of this Act, the supervisor shall notify the Debtors' Ombudsman thereof and the latter

shall take a reasoned decision on the matter. The debtor shall be given an opportunity to express an opinion before such a decision is taken. A decision by the Debtors' Ombudsman on cancellation of the debt mitigation negotiations may be appealed by the debtor to the Debt Mitigation Appeals Committee within one week of receiving the decision; in such case the debt mitigation negotiation period shall continue until the Appeals Committee's conclusion is available.

The Debtors' Ombudsman shall notify known creditors of the cancellation of debt mitigation negotiations.

CHAPTER IV **Voluntary debt mitigation**

Article 16

Proposal for voluntary debt mitigation

As soon as possible after the deadline for lodging claims has expired, the supervisor shall present a voluntary debt mitigation proposal. The proposal shall be drafted in consultation with the debtor.

The proposal for voluntary debt mitigation shall state the length of the debt mitigation period, which shall generally be from one to three years from the entry into force of the agreement. Relevant information shall be included providing an overall picture of the debtor's finances and payment capacity, including information on income, debts, assets and monthly expenditure. A list must be included of all known claims and the supervisor's proposal as to how these are to be dealt with, in accordance with Articles 3 and 21. Furthermore, all valuable assets to be sold or retained must be listed, together with their value, cf. Articles 13 and 14. The proposal must also state the deadline for creditors to take a decision on the proposal.

The supervisor's proposal must ensure that the living expenses of the debtor and his/her family are covered and that in other respects the debtor can be realistically expected to meet his/her obligations, restructure his/her finances and establish a balance between debts and payment capacity.

If the supervisor's proposal assumes that the debtor will pay regular instalments over a specified period of time, the supervisor shall allow the debtor to retain enough income to cover the debtor's living expenses and those of his/her household and other persons whom the debtor is obliged by law to support. The supervisor shall base this on living expense criteria set by the Debtors' Ombudsman. If a debtor has visitation rights with respect to children, consideration shall be taken of normal and appropriate expenses related to those rights.

The amount of instalments as referred to in the fourth paragraph shall be linked either to the wage index or other specific measurements of price level changes corresponding to the means by which the debtor intends to obtain income to meet these payments.

If the supervisor deems it necessary or a creditor so demands, the supervisor may call a special meeting with creditors and the debtor to discuss arrangements for payment before drafting a proposal for voluntary debt mitigation. If there is cause for so doing, a debtor's guarantors, co-debtors and persons who have provided pledges on their assets to secure claims against the debtor shall also be invited to the meeting.

Article 17

Approval of voluntary debt mitigation

The supervisor sends the voluntary debt mitigation proposal by verifiable means to all known creditors concerned. Creditors shall be given a three-week time limit after the proposal is sent, which must be clearly indicated in the proposal, to state their position towards it.

The supervisor shall, on own initiative, attempt to obtain creditors' approval of the proposal for voluntary debt mitigation.

If a creditor has comments on the proposals or opposes it, the creditor must submit to the supervisor written grounds for such a position within the deadline allowed them to state their position towards the proposal. If no information is provided in this manner which could result in the cancellation of negotiations on debt mitigation, the supervisor shall attempt to have the creditor review its position, as appropriate, by making amendments to the proposal in consultation with the debtor, which shall then be sent to other creditors once more. Governmental bodies, public collection officials, or officers of public institutions or corporations may approve a voluntary debt mitigation proposal without consideration of provisions in other acts of law, regulations or articles of association regarding claims other than fines.

A voluntary debt mitigation proposal shall be considered approved when all creditors concerned have agreed to it. A creditor who has received a notice as referred to in the first paragraph and has not declared its opposition to the proposal to the supervisor within the three-week deadline shall be considered to have agreed to it.

If a debt mitigation proposal is approved, it shall be signed by the debtor, creditors and guarantors and take effect immediately. It must be immediately sent to all known creditors of the debtor.

CHAPTER V

Preparation for debt mitigation through composition and for mitigation of residential mortgage payments

Article 18

Decision to seek debt mitigation through composition and mitigation of real estate mortgage payments

If an agreement cannot be reached on voluntary debt mitigation as provided for in Chapter IV, the debtor may declare to the supervisor that he/she wishes to seek composition for debt mitigation and, as applicable, mitigation of residential mortgage payments. The supervisor must then reply within two weeks in a written decision giving reasons for his/her recommendation for applying composition or mitigation of real estate mortgage payments; prior to so doing the supervisor shall give the debtor the option of reviewing the proposal for voluntary debt mitigation, in light of comments made by creditors on it. In assessing whether to recommend composition or mitigation of real estate mortgage payments, the supervisor shall, for instance, consider whether anything has come to light which should have precluded debt mitigation from the beginning, whether the debtor is seeking debt relief in excess of what can be considered normal in view of the debtor's finances and future outlook, whether the debtor has fulfilled his/her obligations as provided for in Art. 12 and in other respects acted with honesty in seeking debt mitigation, whether the debtor can realistically be expected to meet his/her obligations if granted debt mitigation and what the views are of those creditors who have participated in debt mitigation negotiations.

If the supervisor does not recommend composition or mitigation of real estate mortgage payments, he/she must inform the debtor thereof without delay. The debtor may refer this decision to the Debt Mitigation Appeals Committee within one week after the decision was taken; the Committee shall take a decision on the referral within two weeks' time. If the Committee upholds the supervisor's decision, debt mitigation negotiations shall conclude immediately and the Debtors' Ombudsman shall notify the debtor's known creditor of this conclusion. If the Appeals Committee overturns the supervisor's decision, the supervisor must proceed as provided for in Articles 19 and 20.

While awaiting a decision as referred to in the first or second paragraph, as to whether compulsory debt mitigation or, as the case may be, mitigation of real estate mortgage payments, shall

be sought the effect of debt mitigation negotiations as referred to in Art. 11. If these remedies are eventually sought, the effect shall continue until these efforts conclude.

Article 19

Petition for debt mitigation through composition

When it has been decided to seek debt mitigation through composition, the supervisor shall, within two weeks' time, draft a proposal for a compulsory arrangement which will cover claims against the debtor other than those secured by liens or other type of collateral rights on the debtor's assets, stating the following:

- a. what amount the debtor offers to pay on the debts covered by the proposal, and on what terms;
- b. what known creditors hold these claims and how much they receive as their share;
- c. whether security will be provided for the payments and, if so, what this will be;

The scheme of arrangements referred to in the first paragraph, together with a summary by the supervisor and, as appropriate, a ruling from the Debt Mitigation Appeals Committee, as provided for in Art. 18, shall be sent to all known creditors.

The continuation of the case shall be in accordance with provisions of Chapter X a of the Act on Bankruptcy etc.

Article 20

Proposal for mitigation of residential mortgage payments

Once a decision has been taken to seek mitigation of residential mortgage payments, whether this is done in tandem with compulsory debt mitigation, as provided for in Art. 19 or without this, the supervisor shall draft a proposal for such debt mitigation and call a meeting of mortgagees within two weeks, in accordance with the instructions in Art. 5 of the Act on Temporary Mitigation of Residential Mortgage Payments. Processing of the case shall continue as prescribed in that Act without a court ruling on the authorisation for debt mitigation; a supervisor who has been appointed as provided for in Art. 9 shall perform the role of supervisor according to the rules of that Act.

CHAPTER VI

Payment to creditors

Article 21

Distribution of payments among creditors

Payments to be distributed among creditors in accordance with voluntary debt mitigation shall be calculated in proportion to the amount of the claim with the following exceptions:

- a. If a debtor retains assets against which there are mortgage claims, he/she shall pay fixed monthly instalments on those mortgage claims which are within the assessed value of the asset during the debt mitigation period; these shall be used to pay claims in accordance with the provisions of the second paragraph of Art. 7 of Act No. 50/2009, on Temporary Mitigation of Residential Mortgage Payments. Fixed monthly payments may not consist of an amount lower than what the supervisor assesses as equivalent to reasonable rent on the general market for the property to which debt mitigation applies, unless specific and temporary circumstances exist. Under such circumstances, the supervisor may decide on a temporarily lower monthly payment for mortgage payments; this may not, however, be less than 60% of reasonable rent. These claims shall not be cancelled upon the conclusion of debt mitigation. The portion of secured claims exceeding the appraised value of the asset used as collateral shall be paid in accordance with the debt mitigation proposal, in the same manner as unsecured claims. When less than three months remain until the end of the debt mitigation period but before it ends a

debtor can seek to have mortgages removed from the property in accordance with the rules of Art. 12 of Act No. 50/2009 on Temporary Mitigation of Residential Mortgage Payments, provided all general conditions for this action provided for by that Act are satisfied.

b. Claims not covered by debt mitigation, cf. the first paragraph of Art. 3, shall be paid in full.

The satisfaction of claims in accordance with an agreement on debt mitigation has the same effect as if the claim had been satisfied according to its original substance.

The Debtors' Ombudsman shall ensure in good time prior to the first due date according to the debt mitigation agreement that a debtor has arranged for a financial undertaking to remit on his/her behalf the payments provided for by the agreement.

Article 22

Disputed claims

If a claim is disputed, in the estimation of the supervisor, funds shall be set aside in order to pay it according to the terms of voluntary debt mitigation. If it turns out that the debtor is obliged to pay the claim, it shall be included under the provisions of the agreement. If no action is taken, by bringing suit or other measures, to determine the validity of the claim within six months of the date voluntary debt mitigation was approved, the Debtors' Ombudsman shall distribute the funds among the creditors to whom debt mitigation applies.

Article 23

Guarantees

If a debtor is obliged to make payment according to a guarantee issued before an application for debt mitigation was approved, but the obligation according to that statement has not been activated by the time voluntary debt mitigation takes effect, debt mitigation shall not include that obligation. If the guarantee is activated later, the provisions of this Act shall apply to amendments to the debt mitigation as applicable. The debtor shall not, however, be obliged to pay more towards a debt resulting from a guarantee than is equivalent to that proportion of unsecured claims which the debtor is obliged to pay under debt mitigation.

CHAPTER VII

Amendment, voiding or invalidation of voluntary debt mitigation

Article 24

Amendments to voluntary debt mitigation at the debtor's request

A debtor may demand that amendments be made to the terms of voluntary debt mitigation if, during the debt mitigation period, unforeseen circumstances arise which reduce the debtor's capacity to fulfil his/her obligations according to the debt mitigation agreement.

If, after the commencement of the debt mitigation period, the debtor has been informed of a debt incurred before the application for debt mitigation was approved, the claim shall be included in the debt mitigation. The same payment shall be made towards the claim as is made towards comparable claims, but only from such time as the claim was made known to the debtor. The debtor may not pay the claim outside of the debt mitigation agreement.

Amendments cannot be requested to voluntary debt mitigation as provided for in the first paragraph until the debtor has made every effort to achieve the same through an agreement with all creditors. If such an agreement is reached, it shall be submitted to the Debtors' Ombudsman; the changes shall not take effect until approved by the Debtors' Ombudsman. If the Debtors' Ombudsman considers the amendments unfair or unsuitable, he/she shall reject them. The debtor or creditors can

appeal a decision to this effect by the Debtors' Ombudsman to the Debt Mitigation Appeals Committee within one week of receiving the Ombudsman's decision.

Article 25

Amendment, voiding or invalidation of voluntary debt mitigation

A creditor included in debt mitigation may demand that amendments be made to the debt mitigation if the debtor's financial position improves significantly during the debt mitigation period. If the debtor's financial position improves because he/she has received a large sum of money, the creditor may demand that all or part of the funds be distributed among creditors without other amendments being made to the voluntary debt mitigation.

A creditor included in a voluntary debt mitigation may demand that the debt mitigation agreement be voided or invalidated if the debtor has failed materially to fulfil his/his obligations according to the debt mitigation agreement.

Voluntary debt mitigation is automatically cancelled if a debtor is authorised to seek composition with creditors, if his/her estate is placed in liquidation or if he/she dies and the estate is administered without the heirs assuming responsibility for its obligations.

Article 26

Procedure for amending, voiding or invalidating voluntary debt mitigation

Requests for amendment to voluntary debt mitigation shall be submitted in writing to the Debtors' Ombudsman. The Debtors' Ombudsman sends the parties concerned the petition submitted and requests necessary information. A meeting shall be called if the creditor or debtor demands it, or if the Debtors' Ombudsman considers it necessary. The Debtors' Ombudsman shall take a decision on the request within one month of receiving it. A debtor or creditor can appeal a decision by the Debtors' Ombudsman to the Debt Mitigation Appeals Committee within one week of receiving the Ombudsman's decision. Once the Committee's ruling is received, a civil suit can be brought to invalidate the decision.

A creditor may bring civil suit against the debtor to request voiding or invalidation of voluntary debt mitigation.

Article 27

Debtor's obligation disclosure toward creditors

If circumstances arise which will confer on creditors the right to request the amendment, invalidation or voiding of voluntary debt mitigation, the debtor shall, within one month and in a secure manner, inform the creditors of those circumstances.

Chapter VIII

Miscellaneous provisions

Article 28

Registration of debt mitigation etc.

The supervisor shall request that comments on the Debtors' Ombudsman's approval of a debtor's application for debt mitigation be legally registered as appropriate, in order to safeguard creditors' rights vis-à-vis third parties.

The Debtors' Ombudsman shall maintain a record of all parties authorised to seek debt mitigation.

When the debt mitigation period has passed, the authorities and regulatory bodies may only use information on a debtor's debt mitigation proceedings to determine whether a debtor has previously been granted debt mitigation in accordance with this Act.

If a debtor has retained pledged assets during the debt mitigation period according to this Act, and if the assets are registered in public records, a note concerning debt mitigation shall be entered there.

Article 29

Statement eradicated following the conclusion of the debt mitigation period

Once the debt mitigation period has concluded, a debtor may upon presentation of the agreement on debt mitigation and a statement from the Debtors' Ombudsman that the debt mitigation period is complete, demand removal of a note as referred to in the first paragraph of Article 28.

Article 30

Payment of costs

The Debtors' Ombudsman shall pay the cost of handling an application for debt mitigation and the work of supervisors. Creditors shall pay the cost accruing to them from the processing and implementation of the application for debt mitigation. Costs arising from sale of assets shall be paid from the proceeds of the sale.

Article 31

Undeclared claims

Claims arising prior to the approval of an application for debt mitigation and for which the debtor has not received a demand for payment during the debt mitigation period shall be cancelled upon its conclusion.

Article 32

Debt Mitigation Appeals Committee

The Minister of Social Affairs and Social Security shall appoint a Debt Mitigation Appeals Committee for a four-year term. Decisions may be referred to the Committee as provided for in this Act.

The Debt Mitigation Appeals Committee shall be comprised of three persons. At least two of them must hold a professional legal qualification or master's degree in law and one must fulfil the requirements to be appointed a District Court judge. The Minister shall appoint a member of the Committee who fulfils these requirements to chair the Committee.

Decisions by the Debt Mitigation Appeals Committee shall be a final administrative solution.

The Minister shall issue a regulation on the Committee's tasks.

Article 33

Effect of debt mitigation on a debtor's entitlement to payment or assistance from the state or local authorities

That portion of the debt cancelled by debt mitigation shall not reduce the debtor's right to any payments or assistance from the state or local authorities.

Article 34

Procedures for implementing debt mitigation

The Debtors' Ombudsman sets procedural rules for implementation of payment mitigation which the Minister confirms and shall be made public.

Article 35

Entry into force

This Act shall enter into force on 1 August 2010.

Article 36

Amendments to other Acts

From the date this Act enters into force, the following amendments shall be made to other

Acts:

1.

Act No. 21/1991, on Bankruptcy etc., shall be amended as follows:

a. Article 63a of the Act shall read as follows:

Any person who has unsuccessfully sought to reach an agreement with his creditors under the Act on Debt Mitigation for Individuals, may in accordance with the instructions of this Chapter, seek composition for debt mitigation; such an agreement can only affect claims covered by composition under the general provisions of this Act, cf. Article 28.

An individual who bears unlimited liability for commercial activities, whether solely involved in the activities or in partnership with others, cannot however seek compulsory debt mitigation as provided for in this Chapter unless debts arising from the commercial activities comprise a relatively limited portion of his total debts.

A person intending to seek debt mitigation through composition must submit to a District Court judge a scheme of arrangements from a debt mitigation supervisor for such composition, together with a request for confirmation of the composition proposed in the scheme of arrangements within one week from its issuance by the supervisor; such a scheme of arrangements shall then have the same effect as if it had been approved by creditors in a vote on a scheme of arrangements under the general rules of this Act.

A petition for confirmation of debt mitigation through composition must be accompanied by copies of all the documentation which was available in negotiations to reach voluntary debt mitigation together with a summary by the supervisor.

b. Art. 63 b of the Act shall read as follows:

The provisions of Articles 55-59 shall apply *mutatis mutandis* to processing of requests for confirmation of composition as provided for in Article 63 a. The rules of Chapter X shall apply to debt mitigation through composition with the exception of the third paragraph of Article 60.

c. Art. 63 c – Art. 63 i of the Act shall be deleted.

d. The title of Chapter X a of the Act shall be: **Debt mitigation through composition**

e. The words, “Articles 41 or 42, or the second paragraph of Art. 63g” in Point 3 of of the second paragraph of Article 65 of the Act shall be replaced by: Articles 41 or 42.

2.

The third paragraph of Article 9 of Act No. 32/2009, on Guarantors, shall be worded as follows:

Notwithstanding the provision of the fourth paragraph of Art. 60 of the Act on Bankruptcy etc., composition or other debt relief, including debt mitigation through composition and voluntary debt mitigation, which provide for a reduction in claims against a borrower or primary debtor, shall have the same effect in reducing a claim against a guarantor.

3. The second sentence of Point 3 of Article 28 of Act No. 90/2003, on Income Tax, shall be worded as follows: The same shall apply to write-offs of debts provided for in voluntary debt mitigation under the Act on Debt Mitigation for Individuals or debt mitigation through composition as provided for in Chapter X a of the Act on Bankruptcy etc., No. 21/1991, as subsequently amended, or if attested to by other satisfactory means that assets do not exist to cover [the debts], upon the fulfilment of conditions in a Regulation set by the Minister of Finance on objective assessment for premises for debt relief, requirements for debt relief not being included as income, information disclosure, as referred to in Art. 92, etc.

Temporary Provisions

Notwithstanding the entry into force of this Act, requests for authorisation to seek debt mitigation through composition on the basis of Chapter X(a) of the Act on Bankruptcy, etc., No. 21/1991, which have been submitted to a District Court prior to the entry into force of this Act shall be completed, unless a debtor has withdrawn the application. Legal assistance may be provided on the basis of Act No. 65/1996, to conclude processing of such requests.

Adopted by Althingi on 24 June 2010