

PANAMA UPDATES INSOLVENCY REGIME

Law 12 on May 19th, 2016 establishes the regime of insolvency proceedings, in which its main purpose is the protection of credit and creditors through: a reorganization process to ensure and maintain the efficient company; and a fast orderly liquidation of the inefficient company.

Before the existence of this Law, insolvency rulings under the Commercial Code of Panama -today such rulings are repealed- were intended to punish the debtor for non-compliance and distribute the corporation assets among the existent creditors. Today, the financial system has changed, and also its legislation on insolvency. Therefore, the objective of this regime is to save companies in crisis. For this purpose, different procedures have been established such as the reorganization and liquidation that includes intervention measures by monitoring and suspension of the administration, financing related to plans of restructuring and creditors acquisition of the company.

This new regime applies to all natural persons and registered commercial companies or not registered in the Public Registry of Panama which has their place of business, branch, agency or establishment within Panama. According to the rule, insolvency means "*state of a debtor who cannot attend the general payment of its debts as they mature. Also, financial status of a company whose liabilities exceed the value of its assets*".

Relevant aspects of the insolvency proceedings established in this new law:

Insolvency Proceedings		
Insolvency Proceeding	Entitled to request for it	Essential requirements to proceed with the request
Reorganization	<ol style="list-style-type: none"> 1. The debtor or its representative. 2. The General Meeting of Creditors, through its representative. 3. The representative of a foreign insolvency proceeding (requirements applies). 	The debtor must be in a situation of default, imminent insolvency or foreseeable illiquidity.
Judiciary Liquidation 3 types: <ul style="list-style-type: none"> • post mortem, • voluntary • mandatory 	It will be pronounced by the competent court by the request of: <ol style="list-style-type: none"> 1. Debtor or its representative. 2. Creditor. 3. Representative of a foreign insolvency proceeding (requirements applies). 	<ol style="list-style-type: none"> 1. Cease of payment of an obligation protected by an enforced title, resulting of trade acts. 2. Have against three or more executions, with insufficiency of assets. 3. Hide, abandonment of business or closing the commercial establishment, without appointing who will take care of all the expired obligations. 4. For any other provision established by the law.

For any further questions or legal assistance or interest in learning more about the new regime of insolvency, please do not hesitate to contact us.



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