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## BANKRUPTCY ACT

[Enforcement Date 01. Jul, 2002.] [Act No.6627, 26. Jan, 2002., Amendment by Other Act]

법무부 (법무심의관실)02-2110-3164



법제처 국가법령정보센터

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### PART I SUBSTANTIVE PROVISIONS

#### CHAPTER I GENERAL PROVISIONS

**Article 1 (Effective Date of Bankruptcy)** The bankruptcy shall take effect when it is declared.

**Article 2 (Status of Foreigner)** Any foreigner or foreign juristic person shall have the same status as the Korean or Korean juristic person with respect to the bankruptcy, only when the Korean or Korean juristic person has the same legal status as the foreigner or foreign juristic person under such foreign law.

**Article 3 (Territoriality Principle)** (1) The bankruptcy shall be effective only to the bankrupt's property in Korea.

(2) Any bankruptcy which is declared in a foreign country, shall be ineffective to the property in Korea.

(3) Any credit entitled to be claimed judicially under the Civil Procedure Act, shall be considered to exist in Korea.

**Article 4 (Dissolved Juristic Person)** Any dissolved juristic person shall be considered to still exist for the purpose of the bankruptcy.

**Article 5 (Bankruptcy, Qualified Acceptance and Separation of Property)** Any declaration of bankruptcy to an inheritor or inherited property shall not affect the qualified acceptance or separation of property: Provided, That the proceedings shall be suspended until a ruling on the revocation or discontinuation of the bankruptcy proceedings becomes final or a ruling on the closing of the bankruptcy proceedings is made.

#### CHAPTER II BANKRUPT ESTATE

**Article 6 (Legal Estate)** (1) All property owned by the bankrupt at the time of the declaration of bankruptcy shall be considered the bankrupt estate.

(2) Any claim to be exercised by the bankrupt in the future for any cause originated prior to the declaration of bankruptcy shall be included in the bankrupt estate.

(3) Any unseizable property shall not be included in the bankrupt estate: Provided, That this shall not apply to the goods and claims prescribed in subparagraphs 4 through 6 of Article 195 and subparagraphs of Article

246 (1) of the Civil Execution Act. <Amended by Act No. 5454, Dec. 13, 1997; Act No. 6627, Jan. 26, 2002>

**Article 7 (Administration and Disposal)** The right to the administration and disposal of the bankrupt estate shall belong to the bankruptcy trustee.

**Article 8 (Absolute Acceptance after Declaration of Bankruptcy)** In case where a succession is commenced for the inheritor before the declaration of bankruptcy, any absolute acceptance made by the bankrupt after the declaration of bankruptcy shall have the effect of qualified acceptance with respect to the bankrupt estate.

**Article 9 (Renunciation of Succession)** (1) In case where a succession is commended for the bankrupt before the declaration of bankruptcy, even if the bankrupt renounces the succession after the declaration of bankruptcy, it shall have the effect of qualified acceptance with respect to the bankrupt estate.  
(2) Notwithstanding the provisions of the preceding paragraph the bankruptcy trustee may recognize the effect of the renunciation of succession. In this case, the trustee shall report it to the court within three months after attaining knowledge of the renunciation.

**Article 10 (Bankruptcy and Testamentary Gift by Universal Title)** The provisions of preceding two Articles shall apply mutatis mutandis to the testamentary gift by universal title.

**Article 11 (Bankruptcy and Testamentary Gift by Specific Title)** (1) In case where a testamentary gift by specific title is made for the bankrupt before the declaration of bankruptcy and the bankrupt fails to accept or renounce it when the bankruptcy is declared, the bankruptcy trustee may make the acceptance or renunciation in lieu of the bankrupt.  
(2) The provisions of Article 1077 of the Civil Act shall apply mutatis mutandis to the preceding paragraph.

**Article 12 (Bankruptcy of Inherited Property)** (1) If the bankruptcy is declared against any inherited property, it shall constitute the bankrupt estate.  
(2) Any right of the deceased to the inheritor or right of the inheritor to the deceased shall not be extinguished.

**Article 13 (Disposal of Inheritor's Property)** (1) If the bankruptcy is declared against the inherited property after the inheritor disposes of the whole or part of it, the right of the inheritor to any consideration thereof shall be included in the bankrupt estate.  
(2) In the case as referred to in the preceding paragraph, if the inheritor has already received the consideration, he shall return it to the bankrupt estate: Provided, That the inheritor is not aware of the

existence of the cause of bankruptcy or of the filing of a bankruptcy petition when he receives the consideration, be shall be enough to return it to the extent that the benefit exists.

### CHAPTER III BANKRUPTCY CLAIMS

**Article 14 (Definition of Bankruptcy Claims)** Any claim on property against the bankrupt arising by causes which occurred prior to the declaration of bankruptcy shall be a bankruptcy claim.

**Article 15 (Exercise of Bankruptcy Claim)** No bankruptcy claim may be exercised without going through bankruptcy proceedings.

**Article 16 (Arrival of Maturity Date of Claim with Time Limit)** Any claim with a time limit shall be considered to have arrived the maturity date at the time of the declaration of bankruptcy.

**Article 17 (Amount of Bankruptcy Claim in case of Non-Monetary Claim, etc.)** (1) If the object of claim is not monetary, the amount of the claim is not definite, or the claims are payable by a foreign currency, the appraised value the bankruptcy is declared shall be the amount of the bankruptcy claim.  
(2) The provisions of paragraph (1) shall also apply in cases where the amount or duration of a regular allowance claim is not determined.

**Article 18 (Amount of Bankruptcy Claim in case of Conditional Claim, etc.)** (1) In case of a conditional claim, the total amount or the appraised amount as prescribed in the preceding Article, shall be the amount of the bankruptcy claim.  
(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any future claim against the bankrupt.

**Article 19 (Amount of Bankruptcy Claim in case of Bankruptcy of Those Liable in Full)** In cases where several debtors are severally liable for the whole amount of obligation, and if all or any of them are/is declared bankrupt, the creditor may exercise his right as bankruptcy creditor against each bankrupt estate, with respect to the whole amount of claim that exists when the bankruptcy is declared.

**Article 20 (Amount of Bankruptcy Claim in case of Guarantor's Bankruptcy)** If a guarantor is declared bankrupt, the creditor may exercise his right as a bankruptcy creditor with respect to the whole amount of the claim that exists when the bankruptcy is declared.

**Article 21 (Right to Reimbursement in Future)** (1) In cases where several persons are severally liable for the whole amount of obligation, and if all or any of them are/is declared bankrupt, any person holding the

right to reimbursement which might be exercised against the bankrupt in the future may exercise his right as bankruptcy creditor against each bankrupt estate with respect to the whole amount of the claim for reimbursement: Provided, That this shall not apply where the creditor has already exercised his right as bankruptcy creditor with respect to the whole amount of the claim.

(2) In the case of the proviso as referred to in the preceding paragraph, where a person who holds the right to reimbursement has performed the obligation, he shall assume the right of the creditor in proportion to such performance.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to a right to reimbursement which might exercise in the future against the bankrupt by.

**Article 22 (Amount of Bankruptcy Claim in case of Partial Guarantee by Several Persons)** The provisions of Articles 19, 20 and 21 (1) and (2) shall apply mutatis mutandis to the guaranteed portion in cases where each of several guarantors guarantees part of the obligation.

**Article 23 (Bankruptcy of Member with Unlimited Liability)** If a member with an unlimited liability for any obligation of the corporation, is declared bankrupt, the creditor of the corporation may exercise his right, as bankruptcy creditor against the bankrupt estate with respect to the whole amount of the claim that exists when the bankruptcy is declared.

**Article 24 (Bankruptcy of Member with Limited Liability)** If a member with limited liability for any obligation of the corporation, or the corporation, is declared bankrupt, the creditor of the corporation may not exercise his right against the member with limited liability: Provided, That the corporation may exercise a claim for contribution as a bankruptcy claim.

**Article 25 (Bankruptcy of Inheritor)** In the case where an inheritor is declared bankrupt, even though the property is separated, any obligee of the person succeeded to creditor and testamentary donee may exercise their rights as bankruptcy creditor against the bankrupt estate with respect to the whole amount of the claim.

**Article 26 (Bankruptcy of Inherited Property and Inheritor)** If a bankruptcy is declared against any inherited property and the inheritor, the obligee of the person succeeded to creditor and testamentary donee may exercise their rights against the bankrupt estate with respect to the whole amount of the claim.

**Article 27 (Qualified Acceptance of Inheritor)** (1) In the case as referred to in the preceding two Articles, if the inheritor who is declared bankrupt, has made a qualified acceptance, the obligee of the person succeeded to creditor and testamentary donee may not exercise their rights as bankruptcy creditor against the inheritor's proper property.

(2) The provisions of the preceding paragraph shall also apply in cases where the qualified acceptance is effective under Article 8 or 9 (1).

**Article 28 (Bankruptcy of Inherited Property)** If a bankruptcy is declared against any inherited property, the inheritor shall have the same rights as the obligee of the person succeeded to creditor with regard to any claim against the deceased, and any contribution made to discharge the obligation of the deceased.

**Article 29 (idem)** If a bankruptcy is declared against any inherited property, any creditor of the inheritor may not exercise his rights as bankruptcy creditor against the bankrupt estate.

**Article 30 (Expenses for Intervention in Bankruptcy Proceedings)** The expenses for intervention in the bankruptcy proceedings shall be a bankruptcy claim.

**Article 31 (Equal Performance to Persons in Same Order)** Any claim to be satisfied in the same order shall be satisfied in proportion to the amount of the claim.

**Article 32 (Claim with Priority in Bankruptcy)** Any bankruptcy claim, having a general priority to the property belonging to the bankrupt estate, shall have a preference to other claims.

**Article 33 (Calculation of Period of Priority)** If the priority exists for any claim within a specified period, the period shall be calculated retroactively from the time the bankruptcy is declared.

**Article 34 (Priority of Creditor of Deceased)** If a bankruptcy is declared against any inherited property, the claim of the obligee of the person succeeded to creditor shall have a preference to the claim of any testamentary donee.

**Article 35 (Priority among Creditors in case of Bankruptcy of Inheritor)** If a bankruptcy is declared against an inheritor upon a petition filed within the period for filing bankruptcy petition against any inherited property, the claim of the creditor of the inheritor shall have a preference to any claim of the obligee of the person succeeded to creditor and the testamentary donee with respect to his proper property, and any claim of the obligee of the person succeeded to creditor and the testamentary donee shall have a preference to any claim of the creditor of the inheritor with respect to the inherited property.

**Article 36 (Order in Bankrupt Estate of Inherited Property and Inheritor)** If a bankruptcy is declared against any inherited property and an inheritor, the claim of the creditor of the inheritor shall have a preference to the claim of any obligee of the person succeeded to creditor and the testamentary donee with respect to the bankrupt estate of the inheritor.

**Article 37 (Junior Claim)** The following claims shall be in the order subsequent to any bankruptcy claim:

1. Interest accruing after the declaration of bankruptcy;
2. Compensation for damages and any penalty for a nonperformance after the declaration of bankruptcy;
3. Expenses for intervention in the bankruptcy proceedings;
4. Fines, minor fines, expenses for any criminal proceedings, additional collection amount, and fines for negligence;
5. In case where the term of any claim bearing no interest is to arrive after the declaration of bankruptcy, the portion equivalent to the amount of the interest if the total amount of the principal and interest calculated by the legal interest rate from the time of declaration of bankruptcy to the end of such term is the amount of the claim;
6. In case where the term of any claim bearing no interest is not determined, the portion equivalent to the difference between the amount of the claim and the appraised value at the time of declaration of bankruptcy; and
7. In case of a claim for the money payable by periodical installment, of which the amount and duration are fixed, the portion equivalent to the sum of interests calculated according to the provisions of subparagraph 5 with respect to each installment, and if the sum of the amounts of principal calculated according to the provisions of the said subparagraph exceeds the amount of the principal from which accrues the interest equivalent to the installment by the legal interest rate, the portion equivalent to the excess amount.

## CHAPTER IV ESTATE CLAIM

**Article 38 (Scope of Estate Claim)** The following claims shall be regarded as estate claims: [<Amended by Act No. 6111, Jan. 12, 2000>](#)

1. Judicial expenses for the common interests of bankruptcy creditors;
2. Claims collectable pursuant to the National Tax Collection Act or the examples of collection of the national taxes: Provided, That any claim created for any cause after the declaration of bankruptcy shall be limited to those as to the bankrupt estate;
3. Expenses for management, realization and distribution of the bankrupt estate;
4. Claims caused by an act of the bankruptcy trustee with respect to the bankrupt estate;
5. Claims against the bankrupt estate due to any management of affairs or unjust enrichment;
6. Claims against the bankrupt estate caused by any act performed by an urgent necessity after the mandate is terminated or the power of representation is extinguished;
7. Claims held by the other party, in cases where the bankruptcy trustee performs any obligation under Article 50 (1);

8. Claims created by the time a bilateral contract is terminated, in cases where such a contract is terminated by the declaration of bankruptcy;
9. Aid allowance for the bankrupt and the persons supported by the bankrupt;
10. Pays, retirement allowances, and accident compensations for employees of the bankrupt; and
11. Return claims of deposits by and guarantee money for employees of the bankrupt, which have resulted from a certain cause before the declaration of bankruptcy.

**Article 39 (Claim of Charge in case of Testamentary Gift Subject to Charge)** If the bankruptcy trustee receives a performance of a testamentary gift subject to a charge, the claim to get any benefit of the charge shall be the estate claim to the extent not exceeding the value of the testamentary gift.

**Article 40 (Satisfaction of Estate Claim)** The estate claim shall be satisfied at any time without going through the bankruptcy proceedings.

**Article 41 (Priority of Estate Claim)** The estate claim shall be satisfied in preference to the bankruptcy claim.

**Article 42 (Method of Performance in case of Shortage in Bankrupt Estate)** (1) If it becomes obvious that the bankrupt estate is insufficient to satisfy the total estate claim, the satisfaction of the estate claim shall be made in proportion to the amount of claim not paid, regardless of the priority prescribed by the Acts and subordinate statutes: Provided, That it shall not affect any lien, pledge, mortgage or lease on deposit basis, which exists with regard to the estate claim.

(2) The estate claim prescribed in subparagraphs 1 through 7 and 10 of Article 38 shall have preference to other ones. <Amended by Act No. 6111, Jan. 12, 2000>

**Article 43 (Application of Provisions concerning Bankruptcy Claim)** (1) The provisions of Articles 16, 17 and 18 (1) shall be apply mutatis mutandis to the estate claim prescribed in subparagraph 7 of Articles 38 and 39.

(2) If the estate claim is a claim bearing no interest or is a claim for the money payable by periodic installment, the amount of the claim shall be the amount calculated by deducting the amount equivalent to the portion which is in the order subsequent to other bankruptcy claims under subparagraphs 5 through 7 of Article 37, on the assumption that such claim is a bankruptcy claim.

## CHAPTER V EFFECT OF BANKRUPTCY ON JURISTIC ACT



**Article 44 (Juristic Act of Bankrupt after Declaration of Bankruptcy)** (1) Any juristic act taken by a bankrupt to any property belonging to the bankrupt estate after the declaration of bankruptcy shall not be set up against any bankruptcy creditor.

(2) Any juristic act taken by a bankrupt at the date of the declaration of bankruptcy, shall be presumed to have taken place after the declaration of bankruptcy.

**Article 45 (Acquisition of Right after Declaration of Bankruptcy)** (1) Even though any right to the property belonging to the bankrupt estate is acquired not by the juristic act of the bankrupt, but after the bankruptcy is declared, the acquisition shall not be set up against any bankruptcy creditor.

(2) The provisions of subparagraph 2 of preceding Article shall apply mutatis mutandis to the acquisition prescribed in the preceding paragraph.

**Article 46 (Registration, Record etc. after Declaration of Bankruptcy)** (1) Any registration or provisional registration as prescribed in Article 3 of the Registration of Real Estate Act, made after the declaration of bankruptcy, as a performance of any obligation created prior to the declaration of bankruptcy on any real estate or vessel, shall not be set up against any bankruptcy creditor: Provided, That in cases where a registration or provisional registration is made by a person having the right to the registration not knowing the fact that a bankruptcy has been declared, this shall not apply.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any record or provisional record on the establishment, transfer or change of the right.

**Article 47 (Performance to Bankrupt after Declaration of Bankruptcy)** (1) Any performance made to a bankrupt without knowing the fact after a bankruptcy is declared, may be set up against any bankruptcy creditor.

(2) Any performance made to a bankrupt after declaration of bankruptcy with knowing the fact, may be set up against any bankruptcy creditor, only to the extent that the benefit obtained by the bankrupt estate exists.

**Article 48 (Acceptance or Payment of Bills after Declaration of Bankruptcy)** (1) In cases where a drawer or endorser of a bill of exchange is declared bankrupt, and if the drawee or referee in case of need accepts or pays them without knowing the fact, he may exercise his right as a bankruptcy creditor, with respect to any claim created by it.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to checks and any other instruments for the purpose of paying, money, other things or instruments.

**Article 49 (Presumption of Good or Bad Faith)** In application of the preceding three Articles, good faith shall be presumed with regard to bankruptcy before the public notice of declaration of bankruptcy is given, and bad faith shall be presumed after the public notice thereof is given.

**Article 50 (Rescission or Performance of Bilateral Contract)** (1) If a bankrupt party and the other party fail to complete the performance of a bilateral contract when the bankruptcy is declared, the bankruptcy trustee may, selectively, rescind the contract, or claim for the performance of the other party after first performing the obligation of the bankrupt.

(2) In the case as referred to in the preceding paragraph, the other party may demand the bankruptcy trustee to reply definitely whether he intends to rescind the contract, or claim a performance of obligation, with a reasonable period fixed. If the bankruptcy trustee fails to reply definitely within such period, the contract shall be considered to have been rescinded.

**Article 51 (Rescission by Trustee and Right of Other Party)** (1) If a contract is rescinded under the provisions of the preceding Article, the other party may exercise as bankruptcy creditor the right to damages.

(2) If any consideration received by the bankrupt exists in the bankrupt estate, the other party may claim the return thereof and, if not, he may exercise as bankruptcy creditor, his right to the value thereof.

**Article 52 (Time Transaction of Goods with Exchange Quotation)** (1) In cases of the sale and purchase of goods with prices quoted by exchange and where the purpose of the contract cannot be achieved without fulfilling the contract on a specified date or within a specified period, and if the time arrives after the declaration of bankruptcy, the contract shall be considered to have been rescinded. In this case, the amount of the damages shall be the difference between the quotation of goods to be fulfilled on the same date in the same kind of transaction at the place of performance, and the cost of transaction.

(2) The provisions of paragraph (1) of the preceding Article shall apply mutatis mutandis to the compensation for damage as referred to in paragraph (1).

(3) If the exchange provides otherwise as to the cases referred to in paragraph (1), that provision shall prevail.

**Article 53 (Case where Right to Rescission is provided by Civil Act)** The provisions of Article 50 (2) shall apply mutatis mutandis to an exercise of the right to rescission or termination which the other party or bankruptcy trustee has under Articles 637, 663 or 674 (1) of the Civil Act.

**Article 54 (Lease)** (1) If a lessor is declared bankrupt, any advance of rent or disposal of the claim for rent shall not be set up against any bankruptcy creditor except one on the current or the following term of the time of declaration of bankruptcy.

(2) Any person who has sustained any loss due to inability to set up against the bankruptcy creditor pursuant to the provisions of the preceding paragraph, may exercise as bankruptcy creditor his right to compensation for damage.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the superficies.

**Article 55 (Contract for Work)** (1) If the bankrupt party is liable for fulfilling any work contractual, the bankruptcy trustee may have the bankrupt carry out the work by furnishing the necessary materials. If it is not required that the bankrupt himself carries out the work, the trustee may have any third person finish the work.

(2) In the case as referred to in the preceding paragraph, any remuneration to be paid by the other party to the bankrupt, shall be reverted to the bankrupt estate.

**Article 56 (Mandate)** In cases where the mandator is declared bankrupt, and if the mandatory manages the entrusted affairs without being notified of, or having prior knowledge of, the declaration of bankruptcy, the mandatory may exercise as bankruptcy creditor his right to any claim created by it.

**Article 57 (Mutual Accounts)** (1) The mutual accounts shall be closed when one of the parties is declared bankrupt. In this case, each party may close the accounts and claim a payment of the balance.

(2) The claim, as referred to in the preceding paragraph, shall belong to the bankrupt estate if the bankrupt party has it, or it shall be the bankruptcy claim, if the other party has it.

**Article 58 (Bankruptcy of Co-owner)** (1) In cases where several persons jointly own any property, if one of the co-owners is declared bankrupt, the property may be divided without going through bankruptcy proceedings, even if there is a stipulation of non-division.

(2) In the cases as referred to in the preceding paragraph, a co-owner may acquire the share of the bankrupt by paying the consideration equivalent to it.

**Article 59 (Management of Spouse's Property)** The provisions of Article 829 (3) and (5) of the Civil Act shall apply mutatis mutandis to cases where a person who manages the property of his spouse is declared bankrupt, and the provisions of Article 924 of the said Act shall apply mutatis mutandis, to cases where a person exercising the parental authority is declared bankrupt, as the case may be.

**Article 60 (Taking Over of Lawsuit on Property belonging to Bankrupt Estate)** (1) Any lawsuit on any property belonging to the bankrupt estate, which is pending at the time of the declaration of bankruptcy, may be taken over by the bankruptcy trustee or by the other party. This provision shall also

apply to the lawsuit on the claim as provided in subparagraph 7 of Article 38.

(2) In the cases as referred to in the preceding paragraph, the expenses for the lawsuit shall be an estate claim.

**Article 61 (Effect on Compulsory Execution and Provisional Measure)** (1) Any compulsory execution, provisional attachment or provisional disposition against any property belonging to the bankrupt estate in connection with the bankruptcy claim, shall lose its effect with respect to the bankrupt estate: Provided, That in cases of compulsory execution, the bankruptcy trustee may proceed with the procedure in the interests of the bankrupt estate.

(2) If the bankruptcy trustee proceeds with the procedure of compulsory execution under the proviso of the preceding paragraph, the expenses shall be an estate claim, and in a lawsuit instituted by a person who has an objection against the compulsory execution, the bankruptcy trustee shall be the defendant.

**Article 62 (Effect to Disposition for Arrears)** If a disposition for arrears is made to any property belonging to the bankrupt estate under the National Tax Collection Act or according to the examples of the collection of national taxes, the declaration of bankruptcy shall not prevent the disposition from proceeding.

**Article 63 (Effect to Administrative Case)** (1) If there is any case pending before the administrative agency with respect to any property belonging to the bankrupt estate at the time of the declaration of bankruptcy, the procedure shall be suspended until the case is taken over, or the bankruptcy proceeding is terminated.

(2) The provisions of Article 60 shall apply mutatis mutandis to the case referred to in the preceding paragraph.

## CHAPTER VI AVOIDING POWER

**Article 64 (Avoidable Act)** The following act may be avoided for the bankrupt estate: [<Amended by Act No. 6111, Jan. 12, 2000>](#)

1. Act performed by the bankrupt knowingly that it is prejudicial to the bankruptcy creditor: Provided, That in cases where a person has obtained any benefit from such act not knowingly the fact that it is prejudicial to the bankruptcy creditor at the time of the act, this shall not apply;
2. Offer of any security, act extinguishing any obligation, and other acts prejudicial to bankruptcy creditors, which is performed by the bankrupt after the payment has been suspended, or a petition for bankruptcy has been filed: Provided, That in cases where a person obtained any benefit from such an act not

knowingly the fact that the payment has been suspended, or the petition for bankruptcy has been filed at the time of the act this shall not apply;

3. Act referred to in the preceding subparagraph, in which the other party is a relative of the bankrupt or a person living with him: Provided, That in cases where the other party does not know the fact that the payment has been suspended, or a petition for bankruptcy has been filed, at the time of the act, this shall not apply;
4. Act related to the furnishing of any security, or the extinguishment of any obligation, which is performed by the bankrupt after the payment has been suspended, or a petition for bankruptcy has been filed, or within sixty days before it, and which does not belong to the liability of the bankrupt, or the method or time of which does not belong to the liability of the bankrupt: Provided, That in cases where the creditor does not know the fact that the payment has been suspended or a petition for bankruptcy has been filed, or it is prejudicial to the bankruptcy creditor, at the time of the act, this shall not apply; and
5. Gratuitous act or other equivalent act performed by the bankrupt after the payment has been suspended or a petition for bankruptcy has been filed, or within six months before it.

**Article 65 (Exception to Payment of Bill)** (1) The provisions of the preceding Article shall not be applicable in cases where, the person to whom any bill has been paid by the bankrupt would have lost the right to the bills against one or more debtors, if he, did not receive the payment.

(2) In the case referred to in the preceding paragraph, if the last person liable for recourse or if the person who has entrusted the drawing of bills, knows, or fails to know by negligence, that the payment has been suspended or a petition for bankruptcy has been filed at the time of the act, the bankruptcy trustee may have the person redeem the amount paid by the bankrupt.

**Article 66 (Avoidance of Act Required for or Necessary to Set up Change in Right)** (1) In case where any registration making effective any establishment, transfer, or change of a right is made after a payment has been suspended or a petition for bankruptcy has been filed, it may be avoided, if such a registration is made in bad faith fifteen days after the act bearing the obligation, which was the cause of the registration, has expired: Provided, That where such registration is made based upon a provisional registration, this shall not apply.

(2) The provisions of the preceding paragraph shall also be applicable to a case where an act necessary to set up any establishment, transfer, or change of a right to a third person is done after the payment has been suspended or a petition for bankruptcy has been filed, and if the act is done in bad faith after the expiration of fifteen days after the right is established, transferred or changed.

**Article 67 (Act of Enforcement)** Even though any enforceable title of debt is attached to the act to be avoided, or such an act is based on an act of enforcement, the avoiding power may be exercised.

**Article 68 (Method of Exercise of Avoiding Power)** (1) The avoiding power shall be exercised by the bankruptcy trustee by means of a lawsuit or affirmative defense. <Amended by Act No. 6111, Jan. 12, 2000>  
(2) A court may, upon a request by any bankruptcy creditor, order the bankruptcy trustee to exercise his avoiding power. <Newly Inserted by Act No. 6111, Jan. 12, 2000>

**Article 69 (Effect of Exercise of Avoiding Power)** (1) The exercise of the avoiding power right shall restore the bankrupt estate to its original state.  
(2) In case where the act falling under subparagraph 5 of Article 64 is avoided, and if the other party is in good faith at the time of the act, it shall be sufficient to redeem to the extent that the benefit exists.

**Article 70 (Status of Other Party)** (1) In case where any act of the bankrupt is avoided, and if the consideration paid to him exists in the bankrupt estate, the other party may claim the return of it, and if any benefit obtained from the consideration exists, he may exercise his right as estate creditor, to the limit of such benefit.  
(2) If any benefit obtained from the consideration does not exist, the other party may exercise his right as bankruptcy creditor with respect to the return of the value thereof. This provision shall also apply to the difference in a case where the value of the consideration is larger than the existing benefit.

**Article 71 (Restoration of Other Party's Claim)** In case where any act of the bankrupt is avoided, and, if the other party returns the payment he received or redeems the value thereof, his claim shall be restored to its original state.

**Article 72 (Avoiding Power in case of Bankruptcy of Inherited Property)** The provisions of Articles 64, 65, 70 and 71 shall apply mutatis mutandis to any act performed by the deceased, inheritor, administrator of inherited property, and testamentary executor with respect to the inherited property, in cases where a bankruptcy is declared against any inherited property.

**Article 73 (Avoidance of Performance to Testamentary Donee)** In a case where a bankruptcy is declared against any inherited property, and if a performance or act extinguishing any obligation to the testamentary donee is prejudicial to the bankruptcy creditor holding claim preferential to such obligation, it may be avoided.

**Article 74 (Performance to Other Party of Avoidance)** In a case where a bankruptcy is declared against any inherited property, and if the act as prescribed in Article 72 is avoided, the remaining property shall be distributed, in proportion to the value of their rights, to the other party of the avoided act after rendering the performance to the obligees of the persons succeeded to creditors.

**Article 75 (Avoiding Power against Subsequent Purchaser)** (1) The avoiding power may be exercised against to any subsequent purchaser, in the following cases:

1. Where the subsequent purchaser knows that there is a cause of avoidance to the preceding person, at the time of the subsequent purchase;
2. Where the subsequent purchaser is a relative of the bankrupt, or a person living together with the bankrupt: Provided, That in case where he does not know that there is a cause for avoidance to the preceding person at the time of the subsequent purchase, this shall not apply; and
3. Where the subsequent purchase is made by a gratuitous or similar onerous act of the subsequent purchaser, and there is a cause for avoidance to the preceding person.

(2) The provisions of Article 69 (2) shall apply mutatis mutandis to cases where the avoiding power is exercised under subparagraph 3 of the preceding paragraph.

**Article 76 (Restriction on Avoidance Due to Knowledge of Payment Suspension)** Any act performed before one year from when the bankruptcy is declared, may not be avoided by the reason that the fact of payment suspension is known.

**Article 77 (Extinctive Prescription of Avoiding Power)** The avoiding power shall be extinguished unless it is exercised for two years after the bankruptcy is declared. This provision shall also apply in cases where ten years have passed since the performance of the act provided in any subparagraph of Article 64.  
<Amended by Act No. 6111, Jan. 12, 2000>

**Article 78 (Interruption of Lawsuit for Revocation)** (1) If a lawsuit instituted by a bankruptcy creditor under Article 406 of the Civil Act is pending at the time of the declaration of bankruptcy, the proceedings shall be interrupted until it is succeeded, or the bankruptcy proceedings is cancelled.

(2) The provisions of Article 60 shall apply mutatis mutandis to the cases referred to in the preceding paragraph.

## CHAPTER VII RIGHT OF REPOSSESSION

**Article 79 (Repossession of Property not belonging to Bankrupt)** The declaration of bankruptcy shall not affect the right to repossess any property not belonging to the bankrupt from the bankrupt estate.

**Article 80 (Prohibition of Repossession of Security for Transfer)** Any person who has transferred any property to the bankrupt before the declaration of bankruptcy, may not repossess the property because it is the object of the security.

**Article 81 (Right of Repossession of Sold Goods by Seller)** (1) In case where a seller has shipped to a purchaser goods which are the object of a transaction, he may repossess the goods if the purchaser is declared bankrupt while he does not pay in full the price, and does not receive the goods at the place of destination: Provided, That where the bankruptcy trustee pays in full, and claims a delivery of goods, this shall not apply.

(2) The provisions of the preceding paragraph shall not exclude the application of Article 50.

**Article 82 (Right of Repossession of Commission Agent)** The provisions of the preceding Article shall apply mutatis mutandis to cases where a commission agent who is entrusted with the purchase of goods, dispatches the goods to the principal.

**Article 83 (Right of Substitute Repossession)** (1) If the bankrupt transfers any property which is the object of the right of repossession before the declaration of bankruptcy, the person having the right of repossession may request the transfer of the claim for the consideration. This provision shall also apply in a case where the bankruptcy trustee transfers the property which is the object of the right of repossession.

(2) In the cases as referred to in the preceding paragraph, where the bankruptcy trustee receives any consideration, the person having the right of repossession may claim a delivery of the property received by the trustee as a consideration.

## CHAPTER VIII RIGHT TO FORECLOSE OUTSIDE BANKRUPTCY

**Article 84 (Person Having Right To Foreclose Outside Bankruptcy)** Any person holding a lien, pledge, mortgage or chonsekwon lease on deposit basis which exists on any property belonging to the bankrupt estate, shall have a right to foreclose outside bankruptcy on such property.

**Article 85 (Right to Foreclose Outside Bankruptcy of Co-owners)** In case where several persons hold jointly the right of a property, and if one of them is declared bankrupt, the other co-owner who holds a claim to the other co-owner with respect to the co-ownership, shall have a right to foreclose outside



bankruptcy to the portion of the common property to be reverted to the bankrupt by a division.

**Article 86 (Exercise of Right to Foreclose Outside Bankruptcy)** The right to foreclose outside bankruptcy shall be exercised without going through the bankruptcy proceedings.

**Article 87 (Exercise of Bankruptcy Claim by Person Holding Right to Foreclose Outside Bankruptcy)** Any person holding the right to foreclose outside bankruptcy may exercise the right as bankruptcy creditor only for the amount of the claim that is not to be repaid by the exercise of the right to foreclose outside bankruptcy: Provided, That it shall not prevent him from exercising his right as bankruptcy creditor to any amount of the claim for which he has waived the right to foreclose outside bankruptcy.

**Article 88 (Person holding Quasi-Right to Foreclose outside Bankruptcy)** (1) Any person holding a right of pledge or a mortgage on any of the bankrupt's property that does not belong to the bankrupt estate, may exercise his right as bankruptcy creditor only for the amount of the claim that is not to be satisfied by the exercise of the right.

(2) The provisions of Part II concerning the right to foreclose outside bankruptcy shall apply mutatis mutandis to the person holding the right as referred to in the preceding paragraph.

## CHAPTER IX RIGHT OF SET-OFF

**Article 89 (Right of Set-off)** If a bankruptcy creditor bears an obligation to the bankrupt at the time of the declaration of bankruptcy, it may be offset without going through the bankruptcy proceedings.

**Article 90 (Set-off of Claims with Time Limit and Condition Subsequent)** Even though the claim of the bankruptcy creditor is subject to a time limit or a condition subsequent, or the one as prescribed in Article 17, it may be offset. This provision shall also apply in case where the obligation is subject to a time limit, a condition subsequent, or is related to future claim.

**Article 91 (Set-off of Claim under Condition Precedent and Future Claim)** If a person who holds a claim under the condition precedent or a future claim performs the obligation, he may claim a deposition for the amount of the performance within the limits of the amount of the claim, for set-off in the future.

**Article 92 (Set-off of Claim under Condition Subsequent)** If a person who holds a claim under condition subsequent makes an set-off, he shall furnish security for the set-off or make a deposition for the amount of the set-off.

**Article 93 (Amount of Set-off of Claim)** (1) If the claim of the bankruptcy creditor is a claim bearing no interest or is a claim payable by periodic installment, the set-off shall be permitted to the extent of the amount calculated after deducting the portion falling under subparagraphs 5 through 7 of Article 37.

(2) The provisions of Articles 17 and 18 shall apply mutatis mutandis to the claim of the creditor of bankruptcy.

**Article 94 (Set-off of Rent, Deposit and Rent for Land)** (1) If the bankruptcy creditor is a lessee, an set-off may be made for the rent of the current and following term of the time of the declaration of bankruptcy. If there is any deposit, this provision shall also apply to the subsequent rent.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to the rent for land.

**Article 95 (Prohibition against Set-off)** No set-off may be made in the following cases: [<Amended by Act No. 5519, Feb. 24, 1998>](#)

1. Where a bankruptcy creditor bears any obligation to the bankrupt estate after the declaration of bankruptcy;
2. Where a bankruptcy creditor bears any obligation to the bankrupt, knowing the fact that the payment has been suspended or a petition for bankruptcy has been filed: Provided, That this shall not apply where the obligation is based on any cause provided by law, a cause which has taken place before the bankruptcy creditor knows the fact that the payment has been suspended or a petition for bankruptcy has been filed, or a case which has taken place one year before the bankruptcy is declared;
3. Where a debtor of the bankrupt acquires another person's bankruptcy claim after the declaration of bankruptcy; and
4. Where a debtor of the bankrupt acquires a bankruptcy claim, knowing the fact that the payment has been suspended or a petition for bankruptcy has been filed: Provided, That this shall not apply where the acquisition is based on any petition cause provided by law, or a cause which has taken place before the debtor knows that the payment has been suspended or a petition for bankruptcy has been filed, or a cause has taken place one year before the bankruptcy is declared.

## PART II PROCEDURAL PROVISIONS

### CHAPTER I GENERAL PROVISIONS

**Article 96 (Jurisdiction over Bankruptcy Case)** (1) Any bankruptcy case in which the debtor is a businessman shall fall under the exclusive jurisdiction of a collegiate division of the district court which has jurisdiction in the location of the principal business office (where he has the principal business office in a

foreign country, the location of the principal business office in the Republic of Korea).

(2) Any bankruptcy case in which the debtor is not a businessman or has no business office shall fall under the exclusive jurisdiction of the district court which has jurisdiction in location of its general forum.

[This Article Wholly Amended by Act No. 5519, Feb. 24, 1998]

**Article 97 (Jurisdiction over Bankruptcy of Inherited Property)** The bankruptcy case on any inherited property shall be subject to the exclusive jurisdiction of the district court that has jurisdiction over the location where the inheritance is commenced.

**Article 98 (Jurisdiction over Place where Property is Located)** (1) If there is no competent court as prescribed in Articles 96 and 97, it shall be subject to the exclusive jurisdiction of the district court that has jurisdiction over the place where the property is located.

(2) In the case of a claim, the place where it can be judicially claimed shall be considered its location.

(3) If two or more courts have the jurisdiction over the location at the same time under the preceding two paragraphs, it shall be subject to the exclusive jurisdiction of the court to which the petition for bankruptcy is first filed.

**Article 98-2 (Removal of Cases)** Where it is deemed necessary to avoid serious damage or delay in case under Articles 96 through 98, the court may remove ex officio a case to another court which has jurisdiction over the location of a businessman's other business office or the location of his property.

[This Article Newly Inserted by Act No. 5519, Feb. 24, 1998]

**Article 99 (Application of Civil Procedure Act)** Except as otherwise provided in this Act, the Civil Procedure Act and the Civil Execution Act shall apply mutatis mutandis to the bankruptcy proceedings.

<Amended by Act No. 6627, Jan. 26, 2002>

**Article 100 (Cooperation between Courts)** In the bankruptcy cases, the courts may seek legal assistance from each other.

**Article 101 (Voluntary Argument and ex officio Investigation)** (1) Any trial on bankruptcy proceedings may be conducted without any argument.

(2) The court may conduct ex officio any necessary investigation of a bankruptcy case.

**Article 101-2 (Duties and Powers of Administrative Committee)** (1) Where an Administrative Committee is established under Article 93-2 of the Company Reorganization Act (hereinafter referred to as the "Administrative Committee"), the Administrative Committee shall carry out the duties as determined by

Acts and subordinate statutes or by the court of the following, on bankruptcy proceedings under the court's supervision:

1. Presentation of opinion on the appointment of trustees in bankruptcy;
2. Supervision and evaluation of the execution of business by bankruptcy trustees;
3. Operations related to the meeting of creditors; and
4. Other businesses related to bankruptcy proceedings.

(2) The Administrative Committee may delegate part of the duties to the members of the Administrative Committee (hereinafter referred to as "administrators") to carry out efficiently the duties referred to in any of subparagraphs of paragraph (1).

(3) Where it is not deemed appropriate that any administrator doing duties pursuant to paragraph (2) carries out such duties, the court may order the Administrative Committee to delegate his duties to any other administrator.

(4) The court may delegate part of permitted business on bankruptcy proceedings to any administrator. In this case, the scope of and procedures, etc. for delegation shall be determined by the Supreme Court Regulations.

(5) The provisions of Article 54-3 of the Company Reorganization Act shall apply mutatis mutandis to the business conducted by an administrator pursuant to paragraph (4).

(6) Where an Administrative Committee has not been established, the matters on the Administrative Committee of the provisions of Article 147 shall not apply.

[This Article Newly Inserted by Act No. 5519, Feb. 24, 1998]

**Article 102 (Ex Officio Service on Trial)** In a trial on bankruptcy proceedings, the service shall be made ex officio.

**Article 103 (Appeal of Dissatisfaction)** (1) Except as otherwise provided in this Part, any interested party in a trial on the bankruptcy proceedings, may make an immediate appeal against the trial.

(2) The period of the immediate appeal as referred to in the preceding paragraph, shall be fourteen days counting from the day on which the public notice is made, if the trial is notified publicly.

**Article 104 (Method of Request, Statement and Appeal)** Any request, statement and appeal related to the bankruptcy proceedings, shall be made in writing or orally.

**Article 105 (Method and Effectuation of Public Notice)** (1) Any public notice given pursuant to this Part, shall be reported in the Gazette and a daily newspaper as designated by the court. <Amended by Act

No. 5519, Feb. 24, 1998; Act No. 6111, Jan. 12, 2000>

(2) The public notice shall be effective on and after the day following the day on which it is reported in a daily newspaper.<Amended by Act No. 6111, Jan. 12, 2000>

**Article 106** Deleted.<by Act No. 5519, Feb. 24, 1998>

**Article 107 (Public Notice Substituting for Service)** If a service is required under this Part, a public notice may substitute for it.

**Article 108 (Public Notice and Service)** (1) If a service and a public notice are required under this Part, they may be made by mail. <Amended by Act No. 6111, Jan. 12, 2000>

(2) In the case as referred to in the preceding paragraph, the public notice shall have the effect of a service to all interested parties.

**Article 109 (Registration of Bankruptcy of Juristic Person)** In case where a bankruptcy is declared against a juristic person, the court shall without delay, ex officio, entrust the registry office at the each business office or place of business of the bankrupt juristic person with the registration of bankruptcy by sending a written entrustment together with a copy of the ruling on the bankruptcy.

**Article 110 (Entrustment with Registration of Bankruptcy)** If the court becomes aware of the fact that the registration of bankruptcy has been made, it shall entrust without delay, ex officio, the registry office with a registration of bankruptcy, by sending a written entrustment together with a copy of the ruling on the bankruptcy. This provision shall also apply to cases where the court knows that any right belonging to the bankrupt estate is registered.

**Article 111 (Application to Other Registration on Bankruptcy)** The provisions of the preceding two Articles shall apply mutatis mutandis in cases where a ruling on the revocation or discontinuation of bankruptcy, or revocation of a compulsory composition becomes final, and the ruling on the closing of bankruptcy has been made. This provision shall also apply in cases where the bankruptcy trustee has waived any right which is included in the registration of bankruptcy from the bankrupt estate, and the registration thereof is entrusted.

**Article 112 (Duty of Registry and Exemption from Registration Tax)** (1) The registry shall, upon receiving an entrustment of registration under the preceding three Articles, make the registration without delay.

(2) No registration tax shall be imposed on the registration as referred to in the preceding paragraph.

**Article 113 (Registration of Avoidance)** (1) If the act which is the cause of the registration is avoided, the bankruptcy trustee shall make a registration of avoidance. This provision shall also apply to a case where the registration is avoided.

(2) The provisions of Articles 111 and 112 (2) shall apply mutatis mutandis to the case as referred to in the preceding paragraph.

**Article 114 (Application to Registration)** The provisions of four preceding Articles shall apply to any registered right belonging to the bankrupt estate.

**Article 115 (Notification of Corporation's Bankruptcy)** (1) In cases where a bankruptcy is declared against a juristic person whose incorporation or objective of business has been permitted by an administrative agency, the court shall notify the agency of the declaration of bankruptcy.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to a case where the ruling on the revocation or discontinuation of bankruptcy, or revocation of compulsory composition becomes final, or a ruling on the closing of bankruptcy has been made.

**Article 115-2 (Suspension of Bankruptcy Proceedings until Ruling on Discontinuation of Liability Limitation Procedure)** If a ruling on the discontinuation of the liability limitation procedure commenced for the bankrupt is made, the bankruptcy proceedings shall be suspended until such ruling becomes final.

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

## CHAPTER II DECLARATION OF BANKRUPTCY

**Article 116 (Cause of Ordinary Bankruptcy)** (1) If a debtor is unable to make the payment, the court shall, upon petition, declare bankruptcy by a ruling.

(2) If a debtor suspends the payment, it shall be presumed that he is unable to make the payment.

**Article 117 (Cause of Juristic Person's Bankruptcy)** (1) Where a juristic person's total debts exceed its total assets, it may be declared bankrupt. <Amended by Act No. 5519, Feb. 24, 1998>

(2) The provisions of the preceding paragraph shall not apply when a partnership company or a limited partnership company exists.

**Article 118 (Petition for Bankruptcy after Dissolution of Juristic Person)** In the case of a juristic person, a petition for bankruptcy may be filed even after its dissolution, as long as the delivery or distribution of the remaining property has not been completed.

**Article 119 (Cause of Bankruptcy of Inherited Property)** If it is impossible to repay in full any obligation to the obligees of the persons succeeded to creditors and testamentary donees with the inherited property, the court shall, upon petition, declare bankruptcy by a ruling.

**Article 120 (Inheritance after Petition for or Declaration of Bankruptcy)** If the inheritance is commenced after a petition for or declaration of bankruptcy has been filed or made, the bankruptcy proceedings shall be proceeded against the inherited property.

**Article 121 (Filing Period of Petition for Bankruptcy of Inherited Property)** The petition for bankruptcy may be only filed against any inherited property during the period in which it is permitted to claim a separation of property under Article 1045 of the Civil Act. This provision shall also apply in case where a qualified acceptance is made or the property has been separated within such period, but the performance to the obligee of the person succeeded to creditor and the testamentary donee is not yet completed.

**Article 122 (Person Entitled to File Petition for Bankruptcy)** (1) Any creditor or debtor may file a petition for bankruptcy.

(2) If a creditor files a petition for bankruptcy, he shall show prima facie proof of the existence of the claim and the cause of bankruptcy.

**Article 123 (Person Entitled to Request Bankruptcy of Juristic Person)** (1) In the case of a corporation established under the Civil Act, a director may request the bankruptcy; in the case of a partnership company or limited partnership company, a member with unlimited liability; and in the case of a stock company, a director; as the case may be.

(2) In the case of a juristic person as referred to in the preceding paragraph, the liquidator may also file a petition for bankruptcy.

**Article 124 (Petition by Some of Directors, etc.)** If some of the directors, members with unlimited liability, or liquidators, file a petition for bankruptcy, they shall show prima facie proof of the existence of the cause of bankruptcy.

**Article 125 (Application to Other Corporations)** The provisions of the preceding two Articles shall apply mutatis mutandis to any juristic person other than those as provided in Article 123, and any associations or foundations that are not juristic persons but do have a representative or manager.

**Article 126 (Person Entitled to File Petition for Bankruptcy of Inherited Property)** (1) In addition to the obligees of the persons succeeded to creditors and testamentary donees, the inheritor, administrator of inherited property and testamentary executor may also file a petition for bankruptcy on the inherited property.

(2) If the administrator of inherited property, testamentary executor or inheritor in a case where a qualified acceptance has been made or the property has been separated, finds that it is impossible to repay in full the obligation to the obligees of the persons succeeded to creditors and testamentary donees with the inherited property, he shall file, without delay, a petition for bankruptcy.

(3) When the inheritor, administrator of inherited property or testamentary executor files the petition for bankruptcy, he shall show prima facie proof of the cause of the bankruptcy.

**Article 127 (Case where Bankruptcy is Declared in Foreign Country)** If the bankruptcy has been already declared in a foreign country when a petition for bankruptcy is filed, the person filing a petition for bankruptcy shall not be required to show prima facie proof of the cause of the bankruptcy.

**Article 128 (Case of Petition by Person Other than Creditor)** If the person filing a petition for bankruptcy is not a creditor, he shall present, at the same time as the filing, a document indicating the outline of the status of property and a list of the creditors and debtors. If it is impossible to present them at the same time as the filing, they shall be presented thereafter without delay.

**Article 129 (Prepayment of Expenses for Bankruptcy Proceedings)** (1) If a creditor files a petition for bankruptcy, he shall prepay the amount as deemed reasonable by the court as the expenses for the bankruptcy proceedings. If the prepayment is not made, the court may dismiss the petition.

(2) An appeal of dissatisfaction cannot be made against a ruling on the prepayment of expenses.

**Article 130 (Provisional Payment of Expenses for Bankruptcy Proceedings by National Treasury)** If the person filing a petition for bankruptcy is not a creditor, the expenses for the bankruptcy proceedings shall be paid provisionally by the National Treasury. This provision shall also apply in the case where the person filing a petition for bankruptcy is a creditor, but the court declares the bankruptcy without prepayment of the expenses, the prepayment is insufficient, or the court declares the bankruptcy ex officio.



**Article 131 (Entry of Date of Declaration in Written Ruling on Bankruptcy)** The date and time of the declaration of bankruptcy shall be entered in the written ruling on bankruptcy.

**Article 132 (Matters to be Settled at Same Time as Declaration of Bankruptcy)** (1) The court shall appoint the bankruptcy trustee, and determine the following matters at the same time as declaration of bankruptcy: <Amended by Act No. 6111, Jan. 12, 2000>

1. Period for report on the claim: Provided, That the period shall be two weeks to four months from the day on which the bankruptcy is declared;
2. Date of the first meeting of creditors: Provided, That the date shall be within two months after the bankruptcy is declared; and
3. Date of the investigation on the claim: Provided, That the interval between such date and the end of the report period of the claim, shall be at least one week to one month.

(2) The dates referred to in subparagraphs 2 and 3 of the preceding paragraph may be combined.

**Article 133 (Public Notice and Notification on Declaration of Bankruptcy)** (1) When the court declares a bankruptcy, it shall notify publicly the following matters:

1. Text of the ruling on bankruptcy;
2. Name and address of the bankruptcy trustee;
3. Period and date as determined pursuant to the provisions of the preceding Article; and
4. Order of the effect that any debtor of the bankrupt and any owner of the property belonging to the bankrupt estate, shall not make any performance or deliver any property to the bankrupt, and shall report to the bankruptcy trustee the fact that he bears any obligation, he owns any property, and he holds any right to foreclose outside bankruptcy, if any, within a specified period.

(2) The document stating the matters referred to in paragraph (1) 2 through 4, shall be served to the identified creditors, debtors and owners of the property.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis in cases where any of the matters referred to in paragraph (1) 2 through 4 are changed.

(4) Any person who neglects the report referred to in paragraph (1) 4, shall compensate any loss of the bankrupt estate caused by the negligence.

**Article 134 (Notification to Public Prosecutor)** When the court declares a bankruptcy, it shall immediately notify it to the public prosecutor.

**Article 135 (Discontinuation of Bankruptcy at Same Time as Declaration of Bankruptcy)** (1) If the court deems that it is insufficient to pay the expenses for the bankruptcy proceedings with the bankrupt estate, it shall decide the discontinuation of bankruptcy at the same time as the declaration of bankruptcy. In this case, the court shall publicly notify the texts of the rulings on the bankruptcy and its ensuing discontinuation, and the summary of reasons thereof.

(2) In the case referred to in the preceding paragraph, if the revocation of the discontinuation of bankruptcy becomes final, the provisions of the preceding three Articles shall apply mutatis mutandis.

**Article 136 (Exception to Simultaneous Discontinuation of Bankruptcy)** If the amount sufficient to pay expenses of the bankruptcy proceedings is prepaid, the provisions of the preceding Article shall not apply.

**Article 137 (Restriction of Residence of Bankrupt)** The bankrupt may not leave his residence without obtaining the permission of the court.

**Article 138 (Compulsory Appearance of Bankrupt)** (1) If it is deemed necessary, the court may order the compulsory appearance of a bankrupt.

(2) The compulsory appearance shall be made according to the issuance of a warrant of compulsory appearance.

(3) The provisions of the Criminal Procedure Act concerning the compulsory appearance shall apply mutatis mutandis to the compulsory appearance.

**Article 139 (Guard over Bankrupt)** (1) If the bankrupt is likely to flee, or conceal or damage any property, the court may order a guard over him.

(2) In the case referred to in the preceding paragraph, the court shall send the authentic copy of the ruling to the public prosecutor. The public prosecutor shall order the police officials at the police station which has the jurisdiction over the residence of the bankrupt to execute the guard.

**Article 140 (Restriction on Meeting or Communication)** Any bankrupt who has been ordered to be under guard, may not meet or communicate with another person without obtaining the permission of the court.

**Article 141 (Revocation of Guard)** (1) If the guard is not required, the court shall revoke the ruling on the guard ex officio or upon the request of the bankrupt or bankruptcy trustee.

(2) In the case referred to in the preceding paragraph, the court shall send the authentic copy of the ruling to the public prosecutor, who shall order the police official to terminate the guard.

**Article 142 (Application to Quasi-Bankrupt)** The provisions of the preceding five Articles shall apply mutatis mutandis to the legal representative, director or any other person equivalent to the director and manager of the bankrupt. The same shall also apply to the inheritor, his legal representative and manager, in the case of a bankruptcy on the inherited property.

**Article 143 (Liability of Bankrupt, etc. for Explanation)** (1) The bankrupt, his representative or director or any other person equivalent to the director shall give a necessary explanation on the bankruptcy upon a request of the bankruptcy trustee, member of the inspection committee, or creditors meeting. This provision shall also apply to the inheritor, his agent, administrator of inherited property and testamentary executor, in the case of a bankruptcy on any inherited property.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any person who used to occupy the position referred to in the preceding paragraph.

**Article 144 (Compulsory Appearance and Guard prior to Declaration)** If a petition for bankruptcy is filed, the court may order the compulsory appearance or guard over the debtor and others provided for in Article 142 even before the declaration of bankruptcy.

**Article 145 (Disposition for Preservation of Bankrupt Estate prior to Declaration)** (1) If a petition for bankruptcy is filed, the court may order ex officio or upon the request of the interested party, a provisional seizure, provisional disposition, and other necessary preservative measures against the bankrupt estate, even before the declaration of bankruptcy.

(2) The court may change or revoke the disposition referred to in the preceding paragraph.

(3) The judgment under the preceding two paragraphs shall be made in the form of a ruling.

(4) An immediate appeal against the judgement under paragraph (1) or (2) shall not have force on suspension of execution. <Newly Inserted by Act No. 5519, Feb. 24, 1998>

**Article 145-2 (Order of Suspension of Liability Limitation Procedure)** (1) In the case where a petition for bankruptcy is filed, if it is deemed necessary, the court may order ex officio or upon the request of interested parties, a suspension of the liability limitation procedure, until a ruling on the bankruptcy petition has been made: Provided, That this shall not apply where a ruling to commence the liability limitation procedure is rendered.

(2) The court may revoke the ruling of the suspension as referred to in paragraph (1).

(3) No objection shall be permitted against the rulings referred to in paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

**Article 146 (Public Notice and Service on Revocation of Bankruptcy)** (1) If a ruling on the revocation of bankruptcy becomes final, the court shall publicly notify the text.

(2) The provisions of Articles 133 (2), 134, 141 (2), 142 and 327 shall apply mutatis mutandis to the case referred to in the preceding paragraph.

**Article 146-2 (Measures in case of Discontinuation of Liability Limitation Procedure)** (1) If a ruling on the discontinuation of the liability limitation procedure commenced for the bankrupt becomes final, the court shall determine the following matters for the limited creditor:

1. Period of the report on the claim: Provided, That the period shall be one week to two months from the date on which the ruling on the abolition of liability limitation procedure becomes final; and
2. Date of the investigation on the claim: Provided, That the interval between such date and the last date of the report period shall be at least one week to one month.

(2) The court shall make public notification of the periods and dates referred to in paragraph (1).

(3) The document stating the matters as provided in Article 133 (1) 1 and 2 and (2), shall be served to any known creditors.

(4) The document stating the matters referred to in paragraph (2) shall be served to the bankruptcy trustee, the bankrupt and the reported bankruptcy creditors: Provided, That where the dates determined under paragraph (1) 2 and Article 132 (1) 2 are the same, it shall not be required that the document be served to any reported bankruptcy creditor.

(5) The provisions of paragraphs (2) and (3) and the text of paragraph (4) shall apply mutatis mutandis in cases where there is any change in the matters referred to in paragraph (2).

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

### CHAPTER III BANKRUPTCY TRUSTEE

**Article 147 (Appointment of Bankruptcy Trustee)** The bankruptcy trustee shall be appointed by the court after seeking the Administrative Committee's opinion.

[This Article Wholly Amended by Act No. 5519, Feb. 24, 1998]

**Article 148 (Number of Trustee)** The bankruptcy trustee shall be one: Provided, That if it is deemed necessary, the court may appoint several persons.

**Article 149 (Certificate of Qualification)** (1) The court shall deliver a document attesting to the appointment to the bankruptcy trustee.

(2) The bankruptcy trustee shall present the document referred to in the preceding paragraph, upon demand by any interested party, in the discharge of his duties.

**Article 150 (Resignation of Bankruptcy Trustee)** (1) No bankruptcy trustee may resign from his office without justifiable reason.

(2) If the bankruptcy trustee desires to resign from his office, he shall make a request to the court.

**Article 151 (Supervision by Court)** The bankruptcy trustee shall be placed under the supervision of the court.

**Article 152 (Eligibility for Parties in Lawsuit)** In a lawsuit on the bankrupt estate, the bankruptcy trustee shall be the plaintiff or defendant.

**Article 153 (Performance of Duties by Several Bankruptcy Trustees)** (1) If there are several bankruptcy trustees, they shall jointly perform their duties: Provided, That they may divide the duties upon the permission of the court.

(2) If there are several bankruptcy trustees, a declaration of intention by a third person made only to one of them shall be effective.

**Article 154 (Duty of Care)** (1) The bankruptcy trustee shall carry out his duties with the care of a good manager.

(2) If the bankruptcy trustee neglects his duties referred to the preceding paragraph, he shall be jointly and severally liable to the interested parties.

**Article 155 (Appointment of Agent)** (1) The bankruptcy trustee may, upon his own responsibility, appoint in advance an agent to perform his duties in his temporary absence.

(2) The appointment of the agent referred to in the preceding paragraph shall be authorized by the court.

**Article 156 (Advance of Expenses for Bankruptcy)** The bankruptcy trustee may receive an advance of the expenses and the remuneration. The amount thereof shall be determined by the court.

**Article 157 (Dismissal of Bankruptcy Trustee)** The court may dismiss the bankruptcy trustee by a resolution of the creditors meeting, at the request of the inspection committee, or ex officio. In this case, a hearing shall be given to the bankruptcy trustee.

**Article 158 (Liability for Report on Accounts)** (1) When the duties of the bankruptcy trustee are terminated, he and his inheritor shall report, without delay, the accounts to the creditors meeting.

(2) If the bankrupt, the bankruptcy creditor, or the successor bankruptcy trustee does not raise any objection to the accounts at the creditors meeting, the accounts shall be considered approved.

(3) The bankruptcy trustee shall file the report on the accounts and written opinion of the inspection committee with the court three days before the creditors meeting is held, in order to offer them to the inspection of the interested parties.

**Article 159 (Urgent Disposition upon Termination of Duties)** In case where the duties of the bankruptcy trustee are terminated, and if there occur any urgent circumstances, the bankruptcy trustee or his inheritor shall take any necessary disposition, until the successor bankruptcy trustee or the bankrupt manages the property.

#### CHAPTER IV CREDITORS MEETING

**Article 160 (Convocation)** The creditors meeting shall be convened by the court ex officio or upon the request of the bankruptcy trustee or a member of the inspection committee. This provision shall also apply to cases where the bankruptcy creditors, having claim to the amount equivalent to one fifth of the total amount of the reported claim appraised by the court, requests it.

**Article 161 (Public Notice on Time, Date and Subject-Matter)** (1) The date of the creditors meeting and subject-matter of the meeting, shall be notified publicly by the court.

(2) If a postponement or continuation of the creditors meeting is declared, a service or public notice shall not be required.

**Article 162 (Direction by Court)** The creditors meeting shall be directed by the court.

**Article 163 (Quorum)** (1) The resolution of the creditors meeting shall require an affirmative vote of a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims exceeds a half of the total amount of claims the bankruptcy creditors present thereat.

(2) A person who has any special interest in the resolution of the creditors meeting, may not exercise the right to vote.

**Article 164 (Case Considered as Resolution by Judgment)** (1) In case where the creditors meeting is unable to adopt a resolution in accordance with the provisions of the preceding Article, and if the amount of the claims of those who have given their consent to the subject-matter of the resolution, exceeds a half of the total amount of the claims of the bankruptcy creditors who are present and entitled to exercise the right to vote, the court may take it, by ruling, as a resolution.

(2) The ruling referred to in the preceding paragraph shall be notified publicly by the court. No objection may be raised against the ruling.

**Article 165 (Exercise of Vote by Proxy)** Any bankruptcy creditor may exercise his right to vote by proxy. In this case, the proxy shall present a document attesting his proxy.

**Article 166 (Amount of Claim according to which Right to Vote is Exercisable)** (1) The bankruptcy creditor may exercise his right to vote in accordance with the amount of confirmed claim.

(2) If the trustee or bankruptcy creditor raises an objection as to any unconfirmed claim, claim with condition precedent, future claim or any amount of claim unable to be paid by exercise of the right to foreclose outside bankruptcy, the court shall determine whether to permit the exercise of the right to vote and to which amount it is permitted. <Amended by Act No. 6111, Jan. 12, 2000>

(3) The court may change at any time the ruling as referred to in the preceding paragraph, upon the request of the interested party.

(4) If the ruling as referred to in the preceding two paragraphs is pronounced, it shall not require to be served. No objection may be raised against the ruling.

(5) Any bankruptcy creditor may not exercise the right to vote as to the claim as prescribed in Article 37. <Amended by Act No. 6111, Jan. 12, 2000>

**Article 167 (Substituting for Consent of Inspection Committee)** (1) The resolution of the creditors meeting may be substituted for the consent of the inspection committee.

(2) If the resolution of the creditors meeting is different from the opinion of the inspection committee, the resolution of the former shall prevail.

**Article 168 (Prohibition of Execution of Resolution)** (1) If the resolution of the creditors meeting is contrary to the general interest of the bankruptcy creditors, the court may prohibit the execution of the resolution ex officio, or upon the request of the bankruptcy trustee, inspection committee, or bankruptcy

creditors.

(2) If a bankruptcy creditor having no right to vote, makes a request as referred to in the preceding paragraph, he shall show prima facie proof that he is a bankruptcy creditor.

(3) When the ruling on prohibition as referred to in paragraph (1) is pronounced, the service thereof shall not be required.

## CHAPTER V INSPECTION COMMITTEE

**Article 169 (Resolution on Whether Inspection Committee is Established)** Whether the inspection committee is established or not, shall be decided at the first creditors meeting: Provided, That the resolution may be changed at the subsequent creditors meeting.

**Article 170 (Appointment of Inspection Committee Members)** (1) The inspection committee shall be composed of three or more persons appointed at the creditors meeting.

(2) The resolution on the appointment of the inspection committee members shall be authorized by the court.

**Article 171 (Method of Performance of Duties)** (1) The inspection committee shall perform its duties by an affirmative vote of a majority of all the members.

(2) Any person having a special interest may not participate in the vote.

**Article 172 (Right of Investigation of Bankrupt Estate)** Each inspection committee member may demand at any time that the bankruptcy trustee make a report on the bankrupt estate, or investigate the situation of the bankrupt estate.

**Article 173 (Dismissal of Inspection Committee Member)** (1) An inspection committee member may be dismissed at any time by a resolution of the creditors meeting.

(2) If there is any important reason, the court may dismiss any inspection committee member upon the request of the interested parties.

**Article 174 (Applicable Provisions)** The provisions of Articles 154 and 156 shall apply mutatis mutandis to the inspection committee.

## CHAPTER VI MANAGEMENT AND REALIZATION OF BANKRUPT ESTATE



**Article 175 (Possession and Management of Bankrupt Estate)** The bankruptcy trustee shall undertake the possession and administration of the property belonging to the bankrupt estate immediately after he assumes office.

**Article 176 (Sealing)** (1) If it is deemed necessary, the bankruptcy trustee may have the court administrative officer or junior officer, bailiff or notary public affix the seal to the property belonging to the bankrupt estate. In this case, the person who has sealed it, shall prepare a protocol.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to a case of removal of the seal.

**Article 177 (Closure of Books on Property)** The court administrative officer or junior officer shall close the books concerning the bankrupt's property, immediately after the bankruptcy is declared, and prepare the protocol after affixing his signature and seal to the books, and enter the situation of the books in the protocol.

**Article 178 (Appraisal of Value of Property)** The bankruptcy trustee shall appraise without delay the value of all property belonging to the bankrupt estate in the presence of the court administrative officer or junior officer, bailiff or notary public. The bankrupt shall be allowed to attend, unless it might delay such appraisal. <Amended by Act No. 5454, Dec. 13, 1997>

**Article 179 (Preparation of Inventory of Property and Balance Sheet)** (1) The bankruptcy trustee shall prepare on inventory of property and a balance sheet.

(2) The bankruptcy trustee shall affix his signature and seal to the copies of the inventory of property and the balance sheet, and present them to the court. This provision shall also apply to the protocol on the sealing.

(3) The interested party may request an inspection of the documents referred to in the preceding paragraph.

**Article 180 (Control over Mail)** (1) The court shall entrust a postal service organization or public communication exchange with the effect of delivery of any mails or telegrams sent to the bankrupt, to the care of the bankruptcy trustee.

(2) The bankruptcy trustee may open any mail or telegram as referred to in the preceding paragraph, which he receives.

(3) The bankrupt may demand an inspection of the mail or telegram as referred to in the preceding paragraph, and delivery of those not related to the bankrupt estate.

**Article 181 (Cancellation of Control over Mail)** (1) The court may revoke or restrict the entrustment as prescribed in Article 180 (1) after hearing the opinion of the bankruptcy trustee, upon the request by the

bankrupt.

(2) If a ruling on the revocation or discontinuation of the bankruptcy becomes final, or a ruling on the closing of the bankruptcy is entered, the court shall revoke the entrustment as prescribed in Article 180 (1).

**Article 182 (Payment, etc. of Support Allowance)** (1) The bankruptcy trustee may pay the support allowance to the bankrupt and his dependents, or continue the bankrupt's business, with the permission of the court, before the first creditors meeting is held.

(2) The safekeeping method of any currency, securities and other valuables articles shall be determined by the court.

**Article 183 (Report on Progress of Bankruptcy)** The bankruptcy trustee shall report the circumstances which resulted in the bankruptcy and the progress and present state of the bankrupt and bankrupt estate, to the first creditors meeting.

**Article 184 (Necessary Matters to be Resolved at First Meeting)** The first creditors meeting shall make a resolution on the payment of the support allowance, discontinuance or continuation of the business, and the safekeeping method of high-priced Articles.

**Article 185 (Presentation of Object of Right to Foreclose Outside Bankruptcy)** (1) The bankruptcy trustee may demand persons having the right to foreclose outside bankruptcy to present the property subject to such right.

(2) If the bankruptcy trustee desires to appraise the property referred to in the preceding paragraph, the person having the right to foreclose outside bankruptcy may not refuse the appraisal.

**Article 186 (Restriction on Time of Realization)** (1) The bankruptcy trustee may not realize the bankrupt estate before the investigation on the general claim is completed. This provision shall also apply to cases where a compulsory composition is proposed before the investigation on the general claim is completed, but the compulsory composition is not terminated.

(2) Notwithstanding the provisions of the preceding paragraph, if there is any property belonging to the bankrupt estate which might inflict any loss on the bankrupt estate if it is not realized without delay, the bankruptcy trustee may realize it with the consent of the inspection committee, and if there is no inspection committee, with the permission of the court.

**Article 187 (Act Requiring Consent of Inspection Committee)** If the bankruptcy trustee desires to perform the following act, he shall obtain the consent of the inspection committee: Provided, That this shall

not apply in cases of the act falling under subparagraphs 7 through 14, and the value of which is under five million won: <Amended by Act No. 6111, Jan. 12, 2000>

1. Voluntary selling of any right to real estate, domestic and foreign vessels which require registration;
2. Voluntary selling of the mining right, fishery right, patents, design right, utility model right and copyright;
3. Transfer of business;
4. Blanket sale of goods;
5. Loan;
6. Approval on a refusal of succession as prescribed in Article 9 (2), approval on a renunciation of a testamentary gift by universal title as prescribed in Article 10, and renunciation of a testamentary gift by universal title as prescribed in Article 11 (1);
7. Voluntary selling of movables;
8. Transfer of claim and valuable instruments;
9. Claim for performance as prescribed in Article 50 (1);
10. Institution of a lawsuit;
11. Settlement;
12. Waiver of rights;
13. Approval on any estate claim, the right of repossession, and the right to foreclose outside bankruptcy;  
and
14. Redemption of the object of the exclusion right.

**Article 188 (Permission of Court in lieu of Consent)** (1) If it is required to perform any act which requires a consent of the inspection committee pursuant to the provisions of the preceding Article, before the first creditors meeting is held, the bankruptcy trustee shall obtain the permission of the court.

(2) If no inspection committee is appointed, the bankruptcy trustee shall go through a resolution of the creditors meeting: Provided, That if it requires urgency, he may obtain the permission of the court.

**Article 189 (Hearing of Bankrupt's Opinion)** In the case as prescribed in the preceding two Articles, the bankruptcy trustee shall hear the opinion of the bankrupt, except in cases where it might delay the bankruptcy proceedings.

**Article 190 (Order of Court to Suspend Execution)** Even when the bankruptcy trustee performs the act falling under subparagraphs of Article 187 with the consent of the inspection committee, the court may order the suspension of such act upon the request by the bankrupt, or convene the creditors meeting to have a resolution put to it.

**Article 191 (Protection of Third Person in Good Faith)** Even though the bankruptcy trustee violates the provisions of Articles 186 through 188 or the order to suspend the execution as prescribed in the preceding Article, it shall not be set up against a third person acting in good faith.

**Article 192 (Method of Realization)** The realization of the right falling under subparagraphs 1 and 2 of Article 187, shall be subject to the provisions of the Civil Execution Act. <Amended by Act No. 6627, Jan. 26, 2002>

**Article 193 (Realization of Object of Right to Foreclose Outside Bankruptcy)** (1) The bankruptcy trustee may realize any property which is the object of the right to foreclose outside bankruptcy under the Civil Execution Act. In this case, the person having the right to foreclose outside bankruptcy may not refuse to allow it. <Amended by Act No. 6627, Jan. 26, 2002>

(2) In the case as referred to in the preceding paragraph, if the amount to be paid to the person having the right to foreclose outside bankruptcy has not yet been determined, the bankruptcy trustee shall deposit it separately. In this case, the right to foreclose outside bankruptcy shall exist on such deposit.

**Article 194 (Designation of Period of Disposition by Person Having Right to Foreclose outside Bankruptcy)** (1) If the person having the right to foreclose outside bankruptcy is authorized to dispose of the object of the right to foreclose outside bankruptcy, without following such method as prescribed by Act, the court shall determine upon the request by the bankruptcy trustee, the period in which the person having the right to foreclose outside bankruptcy may exercise it.

(2) If the person having the right to foreclose outside bankruptcy fails to take the disposition in the period as referred to in the preceding paragraph, he shall lose the right.

**Article 195 (Report on Situation by Bankruptcy Trustee)** The bankruptcy trustee shall report the situation of the bankrupt estate to the creditors meeting or the inspection committee as prescribed by the creditors meeting.

**Article 196 (Request for Return of Deposited Object)** (1) If the bankruptcy trustee desires to demand a return of any deposited currency, securities or other valuables, he shall obtain the consent of the inspection committee, and if there is no inspection committee, the permission of the court: Provided, That if the creditors meeting makes a different resolution, he shall be subject to it.

(2) In a case where the trustee in bankruptcy violates the provisions of the preceding paragraph, if the depositor acts in good faith, and is not at fault, the performance shall be effective.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to cases where the bankruptcy trustee issues any instruments to have the depositor make a payment or other performance.

**Article 197 (Realization of Bankrupt Estate of Juristic Person)** The provisions of Article 258 of the Commercial Act shall apply mutatis mutandis to cases where a juristic person is declared bankrupt.

**Article 198 (Request for Contribution to Anonymous Partner)** If an secret partnership contract is terminated due to a bankruptcy of the businessman, the bankruptcy trustee may have the secret partner make a contribution to the extent of the loss to be borne by the partner.

**Article 199 (Bankruptcy of Inheritor and Disposal of Inherited Property)** (1) If the inheritor makes a qualified acceptance, or the property is separated, after the inheritor is declared bankrupt, the inherited property shall be disposed of by the bankruptcy trustee. This provision shall also apply to cases where the inheritor is declared bankrupt after the qualified acceptance or separation of property is made.

(2) When the bankruptcy trustee has completed the disposal as referred to in the preceding paragraph, the inventory of property and balance sheet of the bankrupt estate shall be supplemented with respect to the remaining property.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to cases where the testamentary donee by general title is declared bankrupt.

**Article 200 (Applicable Provisions)** The provisions of the preceding Article shall apply mutatis mutandis to cases where the qualified acceptance is effective under Article 8 or 9 (1).

## CHAPTER VII REPORT AND INVESTIGATION ON BANKRUPTCY CLAIM

**Article 201 (Method of Report on Claim)** (1) Any bankruptcy creditor shall report to the court the amount and the cause of the claim, if there is any priority right, such right, if there is the right falling under any subparagraphs of Article 37, the category of such right, within the period as determined by the court, and submit the documentary evidence or copy or abstract thereof.

(2) Any person having a right to foreclose outside bankruptcy shall report, in addition to the matters as referred to in the preceding paragraph, the object of the right, and the amount of claim unable to be repaid by the exercise of the exclusion right.

(3) If any litigation is pending with respect to the bankruptcy claim at the time the bankruptcy is declared, the court concerned, the title and number of the case, shall be reported in addition to those referred to in paragraph (1).

**Article 202 (Preparation of Claim List)** (1) The court administrative officer or junior officer shall prepare the claim list and enter the following matters:

1. Names and addresses of creditors;
2. Amount of claim and the cause thereof;
3. If there is any priority right, such right, and if there is any claim falling under any subparagraphs of Article 37, the category of such right; and
4. Amount of claim reported by the person having the right to foreclose outside bankruptcy, under paragraph (2) of the preceding Article.

(2) The court administrative officer or junior officer shall deliver a copy of the creditors list to the bankruptcy trustee.

**Article 203 (Keeping of Claim List and Documents for Report of Claim)** The claim list and documents concerning the report of obligation shall be kept in the court for inspection by the interested parties.

**Article 204 (Object of Investigation on Claim)** On the date of investigation on the claim, the matters prescribed in Article 202 (1) shall be investigated with respect to each reported claim.

**Article 205 (Attendance of Persons Concerned)** (1) The bankrupt shall attend on the date of the investigation on claim, and state his opinion: Provided, That if there is any justifiable reason, he may have his representative attend.

(2) Any reported bankruptcy creditor or his representative may attend on the date of investigation on the claim, and state his opinion.

(3) The representative shall present the document attesting to his authority as a representative.

**Article 206 (Attendance of Bankruptcy Trustee)** The investigation on the claim may not be conducted without the attendance of the bankruptcy trustee.

**Article 207 (Investigation on Claim Reported after Expiration of Period)** (1) The investigation of any claim reported after the expiration of period may be conducted on the general date of the investigation on the claims, unless the trustee or any bankruptcy creditor raises an objection against it.

(2) If the trustee or bankruptcy creditor raises an objection, the court shall determine a special date to conduct the investigation on the claim as referred to in the preceding paragraph. In this case, the expenses shall be borne by the bankruptcy creditor who has made the report after the expiration of period.

**Article 208 (Applicable Provisions)** The provisions of the preceding Article shall apply mutatis mutandis to cases where a bankruptcy creditor makes any change in the reported matters, which might be prejudicial to the interests of the other bankruptcy creditors after the expiration of period.

**Article 209 (idem)** The provisions of Article 207 (2) shall apply mutatis mutandis to cases where any bankruptcy creditor reports the claim after the general date of the investigation of the claim.

**Article 210 (Public Notice and Service on Special Date)** Any ruling determining the special date for investigation of the claim, shall be notified publicly, and served on the bankruptcy trustee, and reported to the bankruptcy creditors.

**Article 211 (Change of Date for, and Postponement and Continuation of, Investigation on Claim)** The provisions of the preceding Article shall apply mutatis mutandis to a change of the date for investigation of the claim, and the postponement and continuation of the investigation of the claim: Provided, That if a ruling is pronounced, the public notice and service shall not be required.

**Article 212 (Prohibition of Appeal of Dissatisfaction)** No appeal may be made against the ruling made under the preceding two Articles.

**Article 213 (Confirmation of Claim)** (1) If the bankruptcy trustee or bankruptcy creditors raises no objection on the date of the investigation of the claim, the amount of claim, priority right, and the category of claim falling under any subparagraphs of Article 37, shall thereby be confirmed.  
(2) If a litigation is pending with respect to any claim against which the bankrupt has raised an objection, at the time the bankruptcy is declared, the creditor may take over it against the bankrupt.

**Article 214 (Entry of Result of Investigation in Claim List)** (1) The court shall enter the result of the investigation of the claim, and the objection stated by the bankrupt in the claim list.  
(2) The court administrative officer or junior officer shall enter the fact of confirmation in the deed of the confirmed claim, and affix the official court seal to it.

**Article 215 (Effect of Entry of Claim Confirmed in Claim List)** The entry of the confirmed claim in the claim list shall have the same effect as a final and conclusive judgment to all the bankruptcy creditors.

**Article 216 (Notification of Objection against Bankruptcy Claim)** (1) In case where a bankruptcy creditor fails to attend the date of the investigation of the claim, if an objection is raised against the claim, the court shall notify it to the creditor.

(2) The provisions of Article 108 (1) shall apply mutatis mutandis to the notification as referred to in the preceding paragraph.

**Article 217 (Action for Confirmation of Claim)** (1) With respect to any claim against which an objection is raised, the creditor may demand the confirmation of the claim by lawsuit against the demurrant.

(2) If there are more than one demurrant, they shall be joint defendants. This provision shall also apply to cases where the bankrupt is one of the demurrants.

(3) The court shall deliver to the creditor an abstract of the claim list as to his claims.

**Article 218 (Jurisdiction over Action for Confirmation of Claim)** The action for confirmation of the claim shall fall under the exclusive jurisdiction of the court of bankruptcy.

**Article 219 (Taking Over of Lawsuit on Claim against which Objection is Raised)** (1) In case where a lawsuit on any claim, against which an objection is raised, is pending at the time of the bankruptcy declaration, if the creditor desires to demand a confirmation of his claim, he shall take over to the lawsuit against the demurrant.

(2) The provisions of Article 217 (2) shall apply mutatis mutandis in cases as referred to in the preceding paragraph.

**Article 220 (Restriction on Cause of Claim)** The bankruptcy creditor may institute an action for confirmation of a claim or take over the action under Article 213 (2) or the preceding Article, only for the matters entered in the claim list under Article 214 (1).

**Article 221 (Method of Objection against Claim with Title of Debt)** (1) The demurrant may raise any objection against a claim on which an enforceable title of debt or final judgment is already rendered, only through the proceedings which the bankrupt is entitled to take.

(2) The provisions of Articles 217 (2) and (3), 219 and 220 shall apply mutatis mutandis in cases as referred to in the preceding paragraph.

**Article 222 (Entry of Results of Action for Confirmation of Claim)** The court shall enter the results of the action for confirmation of claim in the claim list upon a request of the bankruptcy trustee or bankruptcy creditor.

**Article 223 (Effect of Judgment on Action for Confirmation of Claim)** The judgment made in an action for confirmation of claim shall be binding on all bankruptcy creditors.



**Article 224 (Redemption of Expenses for Lawsuit)** If the bankrupt estate has obtained any benefit from an action for confirmation of claim, the bankruptcy creditor who has raised the objection, may claim a redemption of the expenses for the lawsuit as the estate creditor to the extent of the benefit.

**Article 225 (Value of Action for Confirmation of Claim)** The value of the object of an action for confirmation of claim shall be determined by the court of the suit on the basis of the estimated amount of distribution.

**Article 226 (Report on Fine, etc.)** (1) With respect to a claim as prescribed in subparagraph 4 of Article 37, the State or the public organization shall report without delay to the court, the amount and cause thereof.  
(2) The provisions of Article 214 (1) shall apply mutatis mutandis to the claim reported under the preceding paragraph.

**Article 227 (Case of Petition or Administrative Litigation)** (1) If the cause of the claim reported under paragraph (1) of the preceding Article is a disposition against which a petition or administrative litigation may be instituted, the court shall notify without delay the amount and cause of the claim to the bankruptcy trustee.  
(2) The provisions of Articles 221 through 223 shall apply mutatis mutandis in to case where the bankruptcy trustee raises an objection.

## CHAPTER VIII DISTRIBUTION

**Article 228 (Time of Distribution)** After the investigation on the claim in general is finished, the bankruptcy trustee shall make without delay the distribution, whenever he deems that there are funds sufficient to distribute.

**Article 229 (Consent and Permission Required for Distribution)** Upon making a distribution, the bankruptcy trustee shall obtain the consent of the inspection committee, and if there is no inspection committee, obtain the permission of the court.

**Article 230 (Preparation of Distribution Table)** (1) The bankruptcy trustee shall prepare a distribution table and enter therein the following matters:  
1. Names and addresses of the creditors to participate in the distribution;  
2. Amount of the claim to be participated in the distribution; and

3. Amount eligible for distribution.

(2) The claims to be participated in the distribution shall be classified by the priority, and those having the priority shall be entered in the order, and those having no priority, shall be classified into junior claims under Article 37 and others and entered.

**Article 231 (Presentation of Distribution Table)** The bankruptcy trustee shall present the distribution table to the court for inspection by the interested parties.

**Article 232 (Public Notice on Amount of Distribution)** The bankruptcy trustee shall notify publicly the total claim to be participated in the distribution, and the amount to be distributed.

**Article 233 (Exclusion of Claim against which Objection is Raised)** In case where an objection is raised against a claim, and if any creditor fails to prove, that a lawsuit for confirmation of the claim is instituted, or such lawsuit has been taken over, to the bankruptcy trustee, within fourteen days counting from the day the public notice on distribution is made, such claim shall be excluded from the distribution.

**Article 234 (Exclusion of Person Having to Foreclose outside Bankruptcy Right)** If the person having a right to foreclose outside bankruptcy fails to prove that he undertakes a disposal of the object of the right, and to show prima facie proof about the amount of the claim unable to be paid by such disposal, to the bankruptcy trustee within the period of exclusion provided for in the preceding Article, he shall be excluded from the distribution.

**Article 235 (Rectification of Distribution Table)** The bankruptcy trustee shall rectify the distribution table as soon as possible, in the following cases:

1. Where the cause to rectify the claim list occurs in the period of exclusion;
2. Where the matters as referred to in the preceding two Articles are proved and prima facie proof is shown with regard to the matters; and
3. Where the person having the right to foreclose outside bankruptcy expresses his intention to waive his right to the bankruptcy trustee, or proves the amount of claim which is unable to be repaid by the exercise of his right, in the period of exclusion.

**Article 236 (Objection against Distribution Table)** (1) The creditor may raise an objection against the distribution table to the court, only within seven days after the expiration of the exclusion period.

(2) When the court orders a rectification of the distribution table, the written ruling shall be kept for inspection by interested parties. In this case, the period of appeal shall be counted from the date on which

the written ruling is kept for inspection.

**Article 237 (Notification of Ruling on Ratio of Distribution)** (1) If an objection is raised after the period as prescribed in paragraph (1) of the preceding Article elapses, the bankruptcy trustee shall determine without delay the ratio of distribution, and notify each creditor entitled to participate in the distribution.

(2) In determining the ratio of distribution, it shall be required to obtain the consent of the inspection committee, and if there is no inspection committee, the permission of the court.

**Article 238 (Distribution to Creditor holding Claim with Condition Subsequent)** Any person holding a claim with condition subsequent may not receive the distribution unless he provides a reasonable security.

**Article 239 (Compulsory Composition and Suspension of Distribution)** If there is an offer of a compulsory composition, the court may order suspension of the distribution upon the request of the offerer, only if the bankruptcy trustee has not yet dispatched the notice of the distribution ratio. In this case, it shall be notified publicly.

**Article 240 (Continuation of Distribution Procedure)** In cases where a suspension of distribution is ordered under the preceding Article, if the offer of compulsory composition is dismissed, or a ruling of nonauthorization thereof becomes final, or the creditors meeting votes against the compulsory composition, the court shall order to continue the procedure of distribution. In this case, it shall be notified publicly.

**Article 241 (Method of Distribution)** (1) The creditors shall receive the distribution from the bankruptcy trustee.

(2) The bankruptcy trustee shall, upon making the distribution, enter the amount of distribution in the claim list and the deed of claim, and writes his name and affixes his seal to it.

**Article 242 (Priority of Parties Excluded from previous Distribution)** If a creditor who is excluded from the distribution because he fails to prove or show prima facie proof of the matters as prescribed in Article 233 or 234, makes the proof or shows prima facie proof within the exclusion period on the subsequent distribution, he may receive the distribution in preference to other creditors in the same rank, with respect to the amount payable by the previous distribution.

**Article 243 (Deposit of Distributed Amount)** The amount of distribution for the following claims shall be deposited by the bankruptcy trustee:

1. Claim against which an objection is raised under Article 217, 219 or 221, and a lawsuit is instituted or has been taken over;
2. Claim for which a petition or administrative litigation is not brought to an end before the notice on the ratio of distribution is dispatched;
3. Amount of the claim for which is prima facie evidence is shown by the person having the right to foreclose outside bankruptcy under Article 234;
4. Claim under a condition precedent, and any future claims; and
5. Claim under a condition subsequent, for which any security is not provided under Article 238.

**Article 244 (Permission on Last Distribution)** For a last distribution, the bankruptcy trustee shall obtain permission of the court even after he obtains the consent of the inspection committee.

**Article 245 (Exclusion Period of Last Distribution)** The exclusion period for the last distribution shall be determined by the court and shall be fourteen to thirty days counting from the date on which the public notice on the distribution is made. No objection may be raised against such ruling.

**Article 246 (Determination and Notice of Last Distribution Amount)** The bankruptcy trustee shall determine the last distribution amount of each claim, and notify it to each creditor, without delay after the objection procedure against the distribution table is completed.

**Article 247 (Exclusion of Creditor with Claim under Condition Precedent)** If a claim under condition precedent or future claim is unable to be exercised during the exclusion period for the last distribution, the creditor shall be excluded from the distribution.

**Article 248 (Unconditional Payment to Creditor with Claim under Condition Subsequent)** If the condition of the claim under condition subsequent is not satisfied during the period of exclusion for the last distribution, the security provided under Article 238 shall lose its effect, and the amount deposited under subparagraph 5 of Article 243 shall be paid to the creditor. This provision shall also apply to any security provided or amount deposited under Article 92.

**Article 249 (Exclusion of Person Having Right to Foreclose Outside Bankruptcy)** If a person having a right to foreclose outside bankruptcy fails during the exclusion period for the last distribution to express his intention to waive his right to the bankruptcy trustee, or to prove the amount of the claim which is unable to be repaid by the exercise of the right, he shall be excluded from the distribution.

**Article 250 (Distribution of Deposit)** The amount deposited in the interest of the creditor excluded under Article 247 or the preceding Article, shall be distributed to other creditors. This provision shall also apply to the amount deposited under Article 91.

**Article 251 (Rectification of Distribution Table)** If a property to be distributed is newly found before the dispatch of notice of a distribution amount, the bankruptcy trustee shall rectify the distribution table without delay. <Amended by Act No. 6111, Jan. 12, 2000>

**Article 252 (Deposit of Distributed Amount)** The bankruptcy trustee shall deposit for the creditor the following distributed amount:

1. Distributed amount deposited under subparagraph 1 or 2 of Article 243;
2. Distributed amount for the claim against which a lawsuit or petition is not concluded before the notice on the distributed amount is sent; and
3. Distributed amount not collected by creditors.

**Article 253 (Creditors Meeting for Report on Accounts)** The creditors meeting convened for a report on accounts shall make a resolution on the disposal of property which is not realized by the bankruptcy trustee who deems it valueless.

**Article 254 (Ruling of and Public Notice on Closing of Bankruptcy)** (1) If the creditors meeting is closed, the court shall enter a ruling of closing of the bankruptcy, and notify publicly the text and the summary of the reasons thereof.

(2) No objection may be raised against the ruling referred to in the preceding paragraph.

**Article 255 (Public Notice on Additional Distribution and Notification of Distributed Amount)**

(1) If a property to be distributed is newly found after the notice of the distributed amount, the bankruptcy trustee shall make an additional distribution with the permission of the court. This provision shall also apply even after the closing of bankruptcy is ruled.

(2) The bankruptcy trustee shall, upon obtaining the permission on the additional distribution, notify without delay publicly the amount to be distributed additionally, and determine and notify the amount to be distributed to each creditor.

**Article 256 (Criteria for Additional Distribution)** The additional distribution shall be made on the basis of the distribution table prepared for the last distribution.

**Article 257 (Report on Accounts)** The bankruptcy trustee shall, upon making an additional distribution, prepare without delay the report on accounts, and submit it to the court for authorization.

**Article 258 (Creditor having Estate Claim unknown to Bankruptcy Trustee)** Any creditor of estate claim who is not known to the bankruptcy trustee before the ratio or amount of the distribution is notified, may not be repaid for the claim in by the amount to be distributed in each distribution.

**Article 259 (Effect of Entry of Confirmed Claim in Claim List)** (1) In case of a confirmed claim, if the bankrupt does not raise any objection against the claim on the date of investigation of the claim, the entry in the claim list shall have the same effect to the bankrupt as the final and conclusive judgment.

(2) Any creditor may make a compulsory enforcement on the basis of the entry in the claim list, after the bankruptcy is closed. In this case, the provisions of Articles 2 through 18, 20, 28 through 55 of the Civil Execution Act shall apply mutatis mutandis. <Amended by Act No. 5454, Dec. 13, 1997; Act No. 6627, Jan. 26, 2002>

**Article 260 (Request for Restoration to Original State)** (1) If the bankrupt is unable to attend on the date of the investigation of claims by any cause unattributable to him, he may make a request for restoration to original state to the court to raise the objection subsequently, within seven days after the cause disappears.

(2) The court shall serve ex officio the written request for restoration to the original state on the creditor of the claim against which the bankrupt makes an objection.

(3) When the court grants restoration to the original state, it shall have the same effect as the bankrupt makes an objection on the date of the investigation of the claim. In this case, the court shall enter the objection in the claim list.

**Article 261 (Remaining Assets of Inherited Property)** In case where bankruptcy is declared to inherited property, any obligee of the person succeeded to creditor and testamentary donee excluded from the last distribution, may exercise his rights to the remaining assets.

## CHAPTER IX COMPULSORY COMPOSITION

**Article 262 (Right to Offer of Compulsory Composition)** The bankrupt may offer at any time compulsory composition.

**Article 263 (Offer of Compulsory Composition by Juristic Person)** In the case of a juristic person, the offer of compulsory composition shall require an agreement of directors or other persons equivalent to them.

**Article 264 (Offer of Compulsory Composition in case of Inherited Property)** In the case of an inherited property, compulsory composition shall be offered by the inheritor, but if there are several inheritors, it shall require an agreement among them.

**Article 265 (Compulsory Composition and Person having General Priority)** Any person having general priority shall be considered as a bankruptcy creditor in the compulsory composition.

**Article 266 (Report on Condition of Compulsory Composition)** In offering compulsory composition, the offerer shall report to the court the method of performance, the nature of security if he is to provide it, and other conditions of the composition.

**Article 267 (Case of Impossibility of Reconciliation)** If the whereabouts of the offerer of compulsory composition is not known, or a public prosecution on a fraudulent bankruptcy is pending, compulsory composition may not be made. This provision shall also apply to cases where the judgment of guilt of a fraudulent bankruptcy becomes final.

**Article 268 (Dismissal of Offer of Compulsory Composition)** The court may dismiss any offer of compulsory composition, after hearing the opinions of the bankruptcy trustee and the inspection committee, in the following cases:

1. Where the creditors meeting have ever denied compulsory composition;
2. Where the offer is withdrawn after the date of creditors meeting for compulsory composition is notified publicly;
3. Where a ruling of nonauthorization of the compulsory composition has ever been entered; and
4. Where a ruling of revocation of the compulsory composition has ever been entered.

**Article 269 (Presentation of Written Opinion by Inspection Committee)** In case where the court does not dismiss an offer of a compulsory composition, if there is an inspection committee, the court shall have the inspection committee present its opinion.

**Article 270 (Keeping of Documents and Written Opinion)** The documents concerning the offer of compulsory composition and the written opinion of the inspection committee shall be kept in the court for inspection by interested parties.

**Article 271 (Convocation of Creditors Meeting for Compulsory Composition and Designation of Date)** (1) The date of the creditors meeting for compulsory composition shall be determined within thirty days after the ruling is notified publicly.

(2) The reported bankruptcy creditors, offerer of compulsory composition, any person who becomes a guarantor for compulsory composition, or who bears the obligation together with the bankrupt, or who provides any security for the bankruptcy creditors, the bankruptcy trustee and the inspection committee, shall be summoned at the date.

(3) The document stating the conditions of the compulsory composition and the summary of the inspection committee's opinion, shall be served on those who are prescribed in the preceding paragraph.

**Article 272 (Concurrence of Dates)** The court may concur the date of the creditors meeting for compulsory composition with the general date of the investigation of claims, upon the request of the offerer of the compulsory composition and the inspection committee.

**Article 273 (Application for Compulsory Composition at Date)** (1) The offerer shall attend on the appointed date and apply for compulsory composition: Provided, That if there is any justifiable reason, he may have any representative be present.

(2) The representative shall present any document attesting to his authority as a representative.

(3) If the offerer of compulsory composition or his representative fails to attend on the appointed date and file the application for compulsory composition, he shall be considered to have withdrawn the offer.

**Article 274 (Change in Condition of Compulsory Composition)** The offerer of compulsory composition may change the conditions thereof at the creditors meeting only in cases where it is favorable for the bankruptcy creditors.

**Article 275 (Time of Resolution of Compulsory Composition)** Compulsory composition may not be resolved before the investigation of claims is completed, or after the permission for the last distribution is made.

**Article 276 (Equality of Conditions of Compulsory Composition)** The conditions of compulsory composition shall be on equal terms among bankruptcy creditors: Provided, That this shall not apply where a person who is in an unfavorable position agrees to it.

**Article 277 (Nullity of Act offering Special Benefit)** Any act of an offerer of compulsory composition or a third person offering any special benefit to any bankruptcy creditor without observing the conditions of the



compulsory composition, shall become null and void.

**Article 278 (Requirements for Resolution on Compulsory Composition)** (1) The resolution on compulsory composition shall require an affirmative vote of a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims is more than threefourths of the total amount of claims of the reported bankruptcy creditors.

(2) The calculation of the amount of claims and the total amount of claims referred to in the preceding paragraph, shall be based on the amount in the case of the confirmed claims, and the amount determined by the court under Article 166 (2), in the case of other claims, as the case may be.

**Article 279 (Designation of Continuation Date)** If one of the requirements as prescribed in the preceding Article is satisfied, or the creditors who are a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims exceeds one-half of the total amount of claims of the bankruptcy creditors present, agree to the continuation of the meeting, the court determine and declare the date of continuation upon the request of the offerer of compulsory composition or ex officio.

**Article 280 (Ruling on Whether to Authorize Compulsory Composition)** (1) If a compulsory composition is resolved, the court shall make a ruling on whether to authorize it or not, on the date of trial or on the date declared immediately at the trial.

(2) Any person as prescribed in Article 271 (2) may state his opinion on whether compulsory composition should be authorized or not.

**Article 281 (Applicable Provisions)** The provisions of the proviso of Article 211 and Article 212 shall apply mutatis mutandis to the ruling to determine the date under the provisions of the preceding two Articles.

**Article 282 (Ruling of Nonauthorization of Compulsory Composition)** (1) The court may make a ruling of a nonauthorization of compulsory composition upon a request by a bankruptcy creditor or ex officio, only in the following cases:

1. In cases where the procedure of, or resolution on the compulsory composition is contrary to the provisions of Acts, and if it is impossible to rectify such defect;
2. Where the cause as prescribed in Article 267 takes place after the resolution of the compulsory composition;
3. Where the resolution on the compulsory composition is made in an unlawful way; and
4. Where the resolution on the compulsory composition is contrary to the general interest of the bankruptcy creditors.

(2) If a bankruptcy creditor who has no the right to vote, makes the request referred to in the preceding paragraph, he shall show prima facie proof of the fact that he is a bankruptcy creditor.

(3) The person making the request shall show prima facie proof of the cause of the request.

### **Article 283 (Ruling on Compulsory Composition and Continuous Existence of Juristic Person)**

In a case where a juristic person is declared bankrupt, if a resolution on the compulsory composition is made, the juristic person may continue its existence pursuant to the provisions concerning the modification of the Articles of Incorporation in cases of a incorporated association, and with the authorization of the competent agency in cases of a incorporated foundation.

### **Article 284 (Authorization or Nonauthorization of Compulsory Composition of Juristic Person)**

(1) If it is decided whether a juristic person continue its existence or not, or if a juristic person fails to take the procedure thereof, the court shall determine and notify publicly the date for deciding on whether to authorize compulsory composition or not, upon a request by a director or a person equivalent to him in the corporation, or ex officio.

(2) No objection may be raised against the ruling designating the date as referred to in the preceding paragraph.

(3) If the juristic person discontinues, or the procedure for it is not taken without delay, the court shall enter a ruling of a nonauthorization of the compulsory composition.

**Article 285 (Person Entitled to Vote on Compulsory Composition of Inheritor Property)** In case where the bankruptcy is declared against any inherited property, only the obligees of the persons succeeded to creditors may participate in a resolution on the compulsory composition.

**Article 286 (Person Entitled to Vote on Compulsory Composition of Inheritor)** In case where a bankruptcy is declared against an inheritor, if a qualified acceptance or separation of property is made, only creditors of the inheritor may participate in a resolution on compulsory composition.

**Article 287 (Person Entitled to vote on Compulsory Composition of Inheritor in case of Bankruptcy of Inherited Property and Inheritor)** In case where a bankruptcy is declared against the inherited property and the inheritor, only creditors of the inheritor may participate in a resolution on compulsory composition of the inheritor.

**Article 288 (Deduction of Claim Amount of Those not Participating in Resolution)** In the cases as prescribed in the preceding three Articles, the claim of bankruptcy creditors who can not participate in a

resolution on compulsory composition, shall not be counted in the total amount of claims as prescribed in Article 278 (1).

**Article 289 (Protection of Creditors not Participating in Resolution)** (1) If compulsory composition is prejudicial to the just interest of the bankruptcy creditors as prescribed in the preceding Article, the court shall render a ruling of nonauthorization of the compulsory composition upon their request.

(2) The provisions of Article 282 (2) and (3) shall apply mutatis mutandis to the request as referred to in the preceding paragraph.

**Article 290 (Pronouncement and Public Notice on Ruling of Authorization or Nonauthorization Compulsory Composition)** The ruling on whether compulsory composition is authorized or not, shall be pronounced and notified publicly: Provided, That it is not required to be served.

**Article 291 (Appeal of Dissatisfaction by Creditor Having No Voting Right to Vote)** In making an appeal of dissatisfaction against a ruling on whether the compulsory composition is authorized or not, a creditor having no the right to vote shall show prima facie proof that he is a bankruptcy creditor.

**Article 292 (Restriction on Those Appealing Nonauthorization)** Any bankruptcy creditor who is not entitled to participate in the resolution on compulsory composition, may not make an appeal of dissatisfaction against a ruling of nonauthorization of compulsory composition.

**Article 293 (Effectuation of Compulsory Composition)** Compulsory composition shall take effect when a ruling of authorization thereof becomes final.

**Article 294 (Entry in Claim List)** When the ruling of the authorization on the compulsory composition becomes final, the court administrative office or junior officer shall enter the conditions of compulsory composition in the claim list.

**Article 295 (Satisfaction of Estate Claim and Confirmed Claim with Priority)** (1) When the ruling of authorization of compulsory composition becomes final, the bankruptcy trustee shall perform the confirmed claims of the creditors of estate claim and those having general priority.

(2) With respect to any estate claim and claim with general priority, against which an objection is raised, the bankruptcy trustee shall make a deposit in the interest of the creditors. This provision shall also apply to the claim with general priority as to which prime facie proof is shown to the bankruptcy trustee.

**Article 296 (Applicable Provisions)** The provisions of Article 254 shall apply mutatis mutandis to cases where a ruling the authorization of compulsory composition becomes final.

**Article 297 (Restriction on Administration and Disposal of Bankrupt Estate)** With respect to the administration and disposal of the bankrupt estate, the bankrupt shall be subject to the restrictions set forth in compulsory composition.

**Article 298 (Scope of Effect of Compulsory Composition)** (1) Compulsory composition shall be binding upon all the bankruptcy creditors.

(2) Compulsory composition shall not affect any right which the bankruptcy creditor has to the guarantor of the bankrupt and other person who bears the obligation together with the bankrupt, and any security provided for the bankruptcy creditor.

**Article 299 (Compulsory Composition and Liability of Member)** Any member who is liable for any obligation of a juristic person, shall be liable to the bankruptcy creditors up to the limit as stipulated by compulsory composition: Provided, That if otherwise stipulated by compulsory composition it shall prevail.

**Article 300 (Compulsory Execution by Claim List)** (1) Any bankruptcy creditor with a confirmed claim may enforce compulsory execution by the claim list against a bankrupt and a person who becomes a guarantor for compulsory composition, who bears the obligation together with the bankrupt or who provides security for the bankruptcy creditors, after the bankruptcy case is closed, only when the bankrupt fails to make any objection against the obligation on the date of investigation of obligation: Provided, That it shall not affect the application of Article 437 of the Civil Act.

(2) The provisions of Articles 2 through 18, 20, 28 through 55 of the Civil Execution Act shall apply mutatis mutandis in cases as referred to in the preceding paragraph. <Amended by Act No. 5454, Dec. 13, 1997; Act No. 6627, Jan. 26, 2002>

**Article 301 (Revocation of Concession by Unlawful Compulsory Composition)** (1) If a compulsory composition is made in any unlawful way, each bankruptcy creditor may revoke the concession as stipulated by the compulsory composition: Provided, That this shall not apply to except in case of a bankruptcy creditor who fails by negligence to request a nonauthorization of compulsory composition.

(2) The right to revoke the concession shall be extinguished, if the bankruptcy creditor fails to exercise it within thirty days after he becomes aware of the cause of revocation. This provision shall also apply to cases where two years have passed after a ruling of authorization of the compulsory composition is made.

**Article 302 (Revocation of Concession by Non-Fulfillment)** If the bankrupt neglects to fulfill compulsory composition, the bankruptcy creditor who does not receive the fulfillment thereof, may revoke the concession as stipulated by compulsory composition.

**Article 303 (Effect of Revocation of Concession)** (1) The revocation of concession shall not affect any right which a bankruptcy creditor has acquired by compulsory composition.  
(2) With respect to the amount of claim recovered by revocation of the concession, the bankruptcy creditor may not exercise his right, unless compulsory composition is fulfilled fully.

**Article 304 (Revocation of Compulsory Composition due to NonFulfillment)** (1) In case where a bankrupt neglects to fulfill compulsory composition, if a majority of the reported bankruptcy creditors, whose amount of claims is more than three fourths of the total amount of claims, makes a request for a revocation of compulsory composition the court shall decide.  
(2) Any bankruptcy creditors who are repaid in full under the conditions as stipulated by compulsory composition, shall not be counted in the number of persons necessary for the request as referred to in the preceding paragraph. With respect to those who are repaid in full or in part, the amount calculated by deducting the received amount from the previous amount of the bankruptcy claim, shall be the amount of the claim.  
(3) The provisions of Article 278 (2) shall apply mutatis mutandis to the calculation of the amount of the claim and the total claim as referred to in paragraph (1).

**Article 305 (Revocation of Compulsory Composition by Fraudulent Bankruptcy)** (1) If a conviction on a fraudulent bankruptcy becomes final, the court may enter a ruling of revocation of compulsory composition upon the request of bankruptcy creditor or ex officio.  
(2) The court may order the disposition as prescribed in Articles 144 and 145, even before the conviction becomes final.

**Article 306 (Applicable Provisions)** The provisions of Article 303 (1) shall apply mutatis mutandis to the revocation of compulsory composition.

**Article 307 (Continuation of Bankruptcy Proceedings by Revocation of Compulsory Composition)** When the ruling of the revocation of compulsory composition becomes final, the bankruptcy proceedings shall be continued.

**Article 308 (Revocation of Compulsory Composition and Declaration of Bankruptcy)** In application of the provisions of Part I, a revocation of compulsory composition shall be considered as declaration of bankruptcy, and in the cases as prescribed in Article 304, a request for revocation of compulsory composition, or in cases as prescribed in Article 305, an institution of public prosecution, shall be deemed as a request for suspension of payment or a petition for bankruptcy, if such request or petition is not made before that time.

**Article 309 (Applicable Provisions)** (1) The provisions of Articles 131 through 136, 144 through 146 shall apply mutatis mutandis to the revocation of compulsory composition.  
(2) The expenses for a continuation of the bankruptcy proceedings shall be paid provisionally by the National Treasury.

**Article 310 (Amount of Claim in Reopened Bankruptcy)** With respect to any creditor who has been subject to compulsory composition, the amount calculated by deducting the amount received under the conditions as stipulated by compulsory composition, from the amount of the previous claim, shall be the amount of his bankruptcy claim.

**Article 311 (Scope of Investigation on Claim)** With respect to any previously confirmed claim, the investigation shall be conducted only as to the amount received by the bankruptcy creditor under the conditions as stipulated by compulsory composition.

**Article 312 (Amount Received under Conditions as Stipulated by Compulsory Composition)** If a creditor, who has been subject to compulsory composition, received any amount of money under the conditions as stipulated by compulsory composition, the amount of the previous bankruptcy claim shall be considered as the amount of the claim to be participated in the distribution, and the standards of the distribution ratio shall be determined by adding the amount received by such creditor to the bankrupt estate: Provided, That such creditors may not receive the distribution until other bankruptcy creditor receive the distribution of the same ratio as his distribution.

**Article 313 (Invalidation of Security)** The provision of security by a bankrupt after the closing of bankruptcy, for a creditor who has been subject to of compulsory composition, shall become invalid if compulsory composition is revoked.

**Article 314 (Prohibition of Petition for New Bankruptcy by Creditor in Composition)** Any creditor who has been subject to compulsory composition, may not file a petition for bankruptcy based upon

the previous claim.

**Article 315 (Concurrence of Revocation of Compulsory Composition with New Bankruptcy) (1)**

In case where a request for revocation of compulsory composition and a petition for bankruptcy are filed, if the court makes a ruling of revocation of compulsory composition, or declares the bankruptcy, the other request or petition shall be dismissed.

(2) No appeal of dissatisfaction may be made against the ruling of dismissal as referred to in the preceding paragraph.

**Article 316 (New Bankruptcy prior to Fulfillment of Compulsory Composition)** The provisions of Articles 303 (1) and 310 through 313 shall apply mutatis mutandis in cases where the bankruptcy is declared before compulsory composition is fulfilled fully. This provision shall also apply to cases where a revocation of compulsory composition may be decided under Article 305, and the bankruptcy is declared.

**Article 317 (Compulsory Composition on Inherited Property and Liability of Inheritor for Administration)** (1) If a bankruptcy is declared against any inherited property, the inheritor shall continue the administration of the inherited property with the same care as for his own property, before the compulsory composition is fulfilled: Provided, That if otherwise provided by compulsory composition, it shall apply.

(2) The provisions of Articles 683, 684 and 688 (1) and (2) of the Civil Act shall apply mutatis mutandis in the cases as referred to in the preceding paragraph.

**Article 318 (Applicable Provisions)** The provisions of Article 121 shall apply mutatis mutandis to requests for revocation of compulsory composition on any inherited property.

## CHAPTER X DISCONTINUATION OF BANKRUPTCY

**Article 319 (Request for Discontinuation of Bankruptcy by Consent)** (1) Where a bankrupt obtains a consent by all the reported bankruptcy creditors within the period of report on claim or where he provides any security from the bankrupt estate for the bankruptcy creditors who refuse to give consent to with a consent of other bankruptcy creditors, he may request discontinuation of the bankruptcy.

(2) Whether it is required to obtain the consent of the creditors of unconfirmed claims, shall be determined by the court. This provision shall also apply to whether the security to be provided to the bankruptcy creditors is reasonable or not.

(3) No appeal of dissatisfaction may be raised against the ruling as referred to in the preceding paragraph.

**Article 320 (Request for Discontinuation of Bankruptcy and Continuation of Juristic Person)** In requesting an discontinuation of bankruptcy in cases where a juristic person is declared bankrupt, it shall be required to take the procedure of continuation of the juristic person. In this case the provisions of Article 283 shall be applicable.

**Article 321 (Presentation of Evidential Documents)** In requesting a discontinuation of bankruptcy, the documents attesting to the conditions necessary for such request shall be presented.

**Article 322 (Public Notice on Request for Discontinuation of Bankruptcy and Keeping Documents)** The court shall notify publicly the fact that an discontinuation of bankruptcy is requested, and keep the documents pertaining to the request for inspection by interested parties.

**Article 323 (Objection of Creditor)** (1) Any bankruptcy creditor may make an objection to the court against a request for discontinuation of bankruptcy, within fourteen days from the date on which the public notice as referred to in the preceding Article is made.

(2) Any bankruptcy creditor who has made a report before the period as referred to in the preceding paragraph, may make an objection.

**Article 324 (Hearing of Opinion of Interested Parties)** The court shall hear the opinions of the bankrupt, bankruptcy trustee, and bankruptcy creditor who has made an objection, on whether the conditions necessary for deciding an discontinuation of bankruptcy are satisfied or not, after the period as prescribed in paragraph (1) of the preceding Article elapses.

**Article 325 (Discontinuation of Bankruptcy due to Shortage of Expenses)** (1) If it is deemed insufficient to pay the expenses for the bankruptcy proceedings from the bankrupt estate after a declaration of the bankruptcy, the court shall make a ruling of discontinuation of the bankruptcy, ex officio or upon a request by the bankruptcy trustee.

(2) The provisions of the preceding paragraph shall not apply to cases where the amount sufficient to pay the expenses for the bankruptcy proceedings is prepaid.

**Article 326 (Public Notice on Ruling of Discontinuation)** When the ruling of discontinuation of a bankruptcy is entered, it shall notify publicly the text and summary of the reasons thereof.



**Article 327 (Satisfaction of and Deposit for Estate Claim)** When the ruling of discontinuation of a bankruptcy becomes final, the bankruptcy trustee shall pay for the estate claim, and if there is any objection, he shall make a deposit for such creditors.

**Article 328 (Applicable Provisions)** The provisions of Articles 263 and 264 shall apply mutatis mutandis to a request for discontinuation of a bankruptcy.

**Article 329 (Idem)** The provisions of Article 259 shall apply mutatis mutandis in to cases where the ruling of discontinuation of a bankruptcy becomes final.

## CHAPTER XI SMALL BANKRUPTCY

**Article 330 (Requirements for Small Bankruptcy)** (1) If it is deemed that the amount of the property belonging to the bankrupt estate is under two hundred million won, the court shall make a ruling of a small bankruptcy at the same time as the declaration of bankruptcy. <Amended by Act No. 6111, Jan. 12, 2000>  
(2) In cases as referred to in the preceding paragraph, the court shall notify publicly the text of the ruling of a small bankruptcy, in addition to the matters as prescribed in subparagraphs of Article 133 (1), and enter it in the document as prescribed in paragraph (2) of the said Article.

**Article 331 (Ruling of Small Bankruptcy during Bankruptcy Proceedings)** (1) If the court finds during a bankruptcy proceedings, that the amount of the property belonging to the bankrupt estate is under two hundred million won, it may enter a ruling of a small bankruptcy. <Amended by Act No. 6111, Jan. 12, 2000>  
(2) If the court has entered a ruling of a small bankruptcy under the provisions of the preceding paragraph, it shall notify publicly the text of such ruling, and serve the document stating the contents thereof to the bankruptcy trustee, inspection committee, and known creditors and debtors.

**Article 332 (Revocation of Small Bankruptcy)** If the court finds during the bankruptcy proceedings, that the amount of the property belonging to the bankrupt estate is not less than two hundred million won, it may enter a ruling of a revocation of the small bankruptcy. In this case, the provisions of Article 331 (2) shall be applicable mutatis mutandis. <Amended by Act No. 6111, Jan. 12, 2000>

**Article 333 (Prohibition of Appeal of Dissatisfaction against Ruling)** No appeal of dissatisfaction shall be made against the rulings of the small bankruptcy and the revocation of small bankruptcy.

**Article 334 (Concurrence of Date of Creditors Meeting with Date of Investigation on Claim)**

The date of the first creditors meeting and the date of the investigation on claim, shall be concurrent, unless there is any inevitable reason.

**Article 335 (Non-Appointment of Inspection Committee)** No inspection committee shall be appointed.

**Article 336 (Ruling to be Substituted for Resolution of Creditors Meeting)** (1) Except in cases of the first creditors meeting, the first creditors meeting after a compulsory composition is revoked, and the creditors meeting for the investigation on claim, report on accounts and compulsory composition, the ruling of the court shall substitute the resolution of the creditors meeting.

(2) No appeal of dissatisfaction may be made against the provisions of the preceding paragraph.

**Article 337 (Single Distribution)** The distribution shall be made once, and it shall be subject to the provisions concerning the last distribution: Provided, That it shall not affect any additional distribution.

**Article 338 (Method of Public Notice)** The public notice on the procedure of small bankruptcy shall be carried in the Gazette. In this case, the public notice shall take effect on the day following the date it is given.

<Amended by Act No. 6111, Jan. 12, 2000>

## PART III DISCHARGE AND REINSTATEMENT

### CHAPTER I IMMUNITY

**Article 339 (Request for Discharge)** (1) The bankrupt may make at any time a request for discharge to the court of bankruptcy until the bankruptcy proceedings are terminated. If a discontinuation of bankruptcy is ruled simultaneously with a declaration of bankruptcy, the request for discharge may be made within one month even after the ruling becomes final.

(2) Upon requesting discharge, the offer of compulsory composition or request for discontinuation of bankruptcy as prescribed in Article 319, may not be made.

(3) If compulsory composition is offered, the request for discharge may not be made unless a dismissal or non-authorization of it becomes final, or compulsory composition is denied by the creditors meeting.

(4) If a discontinuation of bankruptcy is requested under Article 319, the request for discharge may not be made unless the ruling of dismissal thereof becomes final.

(5) If the bankrupt is unable to make the request for discharge as referred to in paragraph (1), due to any cause unattributable to him, he may make the request subsequently for discharge only within thirty days

after the cause is extinguished.

**Article 340 (Presentation of Creditors List)** The bankrupt shall present at the same time when the request for discharge is made, the creditors list specifying the names and addresses of the bankruptcy creditors, the amount and cause of the bankruptcy claims, if there is any right to foreclose outside bankruptcy, the object thereof and the amount of the claim unable to be repaid by the exercise of such right. If it is impossible to present at the same time as the request, it shall be presented thereafter without delay.

**Article 341 (Examination of Bankrupt)** (1) The court shall, upon receiving a request for discharge, examine the bankrupt on the date fixed.

(2) The ruling to determine the date as referred to in the preceding paragraph, shall be notified publicly, and served on the public prosecutor, bankruptcy trustee and known bankruptcy creditors who are to be discharged.

(3) The provisions of the preceding paragraph shall apply mutatis mutandis to the change of the date as referred to in paragraph (1), postponement and continuation of the examination.

(4) The provisions of the proviso of Article 211 and Article 212 shall apply mutatis mutandis to the ruling as referred to in the preceding two paragraphs.

(5) The date as referred to in paragraph (1) may be concurrent with the date of the creditors meeting or investigation on claims.

**Article 342 (Report of Bankruptcy Trustee on Investigation)** The court may have the bankruptcy trustee investigate whether there is any cause of non-permission of the discharge, and make a report on the result at the date of examination as referred to in the preceding Article.

**Article 343 (Keeping of Documents)** The court shall keep the document concerning the request for discharge and the investigation of the bankruptcy trustee as prescribed in the preceding Article, for inspection by interested parties.

**Article 344 (Objection against Request for Discharge)** (1) The public prosecutor, bankruptcy trustee, or bankruptcy creditor who is to be subject to the discharge, may make an objection to the court against the request for discharge, at the date of the examination as prescribed in Article 341, or within the period of not less than thirty days as determined by the court on the said date.

(2) If the ruling determining the period as referred to in the preceding paragraph is pronounced, the service thereof shall not be required.

**Article 345 (Hearing of Opinions)** The court shall, upon receiving an objection, hear the opinions of the bankrupt and the person who has raised an objection.

**Article 346 (Cause of Non-permission of Discharge)** The court may make a ruling of non-permission on the discharge only in the following cases:

1. Where it is deemed that the bankrupt commits any offense falling under Article 366, 367, 369 or 374;
2. Where the bankrupt acquires any property, within one year before the declaration of bankruptcy, through a credit transaction by means of any deceitful way with the intent to make the other party believe that there is no fact which is the cause of the bankruptcy, notwithstanding the existence of such cause.
3. Where the bankrupt presents a false list of creditors, or makes a false statement on the status of property before the court;
4. Where the bankrupt has obtained discharge within ten years before he makes the request for discharge; and
5. Where the bankrupt violates his liability prescribed in this Act.

**Article 347 (Dismissal of Request for Discharge)** (1) If the bankrupt fails to attend on the date at which the examination on discharge is to be made, without any justifiable reason, or he attends but refuses to make any statement, the court may dismiss the request for discharge.

(2) In the case as referred to in the preceding paragraph, the bankrupt may not make a new request for discharge as to the same bankruptcy.

**Article 348 (Effective Date of Ruling on Discharge)** The ruling of the discharge shall not take effect until it becomes final.

**Article 349 (Effect of Discharge)** The bankrupt who has obtained the discharge, shall be exempted from all the liabilities to the bankruptcy creditors except the liability for distribution under the bankruptcy proceedings: Provided, That the above discharge shall not apply to the following claims:

1. Taxes;
2. Fines, penalties, expenses for penal procedures, additional collection of charges, and fines for negligence;
3. Compensation for damages for torts by the bankrupt in bad faith;
4. Wages of employees: Provided, That they are limited to the portion of last six months;
5. Deposit money and the security for good conduct of employees; and
6. Claim not entered in the creditors list by the bankrupt in bad faith: Provided, That this shall not apply where the creditors had knowledge of the bankruptcy.

**Article 350 (Effect on Guarantor, etc.)** Discharge shall not affect any right which the bankruptcy creditors have against the guarantor of the bankrupt and the person who bears the obligation together with the bankrupt, and any security provided for the bankruptcy creditors.

**Article 351 (Public Notice of Ruling of Discharge and Entry in Claim List)** When a ruling of the discharge becomes final, the court shall notify publicly the text of the ruling, and if there is a claim list, it shall enter therein the fact that the ruling of discharge becomes final.

**Article 352 (Revocation of Discharge)** If a conviction against a bankrupt for a fraudulent bankruptcy becomes final, the court may decide a revocation of the discharge upon a request by a the bankruptcy creditor or ex officio. This provision shall also apply to cases where the bankrupt obtains the discharge in any unlawful way, and the bankruptcy creditor requests the revocation of the discharge within one year after granting discharge.

**Article 353 (Hearing of Opinions)** The court shall hear the opinions of the bankrupt and the person requesting the revocation, before it decides on the revocation of discharge.

**Article 354 (Effectuation of Revocation of Discharge)** The ruling of the revocation of discharge shall not take effect unless it becomes final.

**Article 355 (Priority of New Creditor)** If the discharge is revoked, any person who obtains the claim by any cause taken place after the discharge is granted, and before it is revoked, shall be entitled to be repaid in preference to other creditors.

**Article 356 (Public Notice on Text of Ruling of Revocation of Discharge and Entry in Claim List)** If a ruling of revocation of discharge becomes final, the court shall notify publicly the text of such ruling, and if there is a claim list, it shall enter the fact that the ruling of revocation of discharge becomes final.

**Article 357 (Applicable Provisions)** The provisions of Articles 99 through 108 shall apply mutatis mutandis to discharge and its revocation.

## CHAPTER II REINSTATEMENT

**Article 358 (Legal Reinstatement)** (1) The bankrupt shall be reinstated in the following cases:

1. Where the ruling of discharge becomes final;
2. Where the ruling of authorization of compulsory composition becomes final;
3. Where the ruling of the discontinuation of bankruptcy upon the request as prescribed in Article 319 becomes final; and
4. Where the bankrupt has passed ten years without receiving any final judgment of guilt for the offense of fraudulent bankruptcy, after the bankruptcy is declared.

(2) If the ruling of the revocation of discharge or compulsory composition becomes final, the reinstatement as referred to in subparagraph 1 or 2 of the preceding paragraph, shall lose its effect in the future.

**Article 359 (Reinstatement by Request)** (1) If a bankrupt who is unable to be reinstated under the preceding paragraph, is exempted from the whole liabilities to the bankruptcy creditors by performance or any other way, the bankruptcy court shall make a ruling of reinstatement upon a request of the bankrupt.

(2) The requesting person shall present documents attesting the fact that he is exempted from the liability.

**Article 360 (Public Notice on Request for Reinstatement and Keeping of Documents)** The court shall notify publicly the fact that a request for reinstatement is made, and keep the documents concerning such request for inspection by interested parties.

**Article 361 (Objection of Creditor)** Any bankruptcy creditor may raise an objection to the court against a request for reinstatement, within three months from the date of the public notice as prescribed in the preceding Article.

**Article 362 (Hearing of Opinion)** If an objection is raised, the court shall hear the opinions of the bankrupt and the bankruptcy creditor raising the objection.

**Article 363 (Effectuation of Reinstatement)** The ruling of the reinstatement shall not take effect until it becomes final.

**Article 364 (Public Notice on Reinstatement)** If the ruling of reinstatement becomes final, the court shall notify publicly the text thereof.

**Article 365 (Applicable Provisions)** The provisions of Articles 99 through 107 shall apply mutatis mutandis to the procedure of reinstatement.

## PART IV PENAL PROVISIONS

**Article 366 (Offense of Fraudulent Bankruptcy)** If a debtor commits an act falling under any of the following subparagraphs with the intention of aiming at his or another persons's interest or doing any harm to the creditor, whether or not it is before or after the bankruptcy is declared, and the declaration of bankruptcy becomes final, he shall be punished by imprisonment for not more than ten years:

1. Act concealing or damaging any property belonging to the bankrupt estate, or disposing it unfavorably to the creditors;
2. Act increasing falsely the burden of the bankrupt estate;
3. Act not preparing the commercial books to be prepared pursuant to Acts, or act not making any entry sufficiently reflecting the present situation of the property, or act making any false entry, or act concealing or damaging them; and
4. Act changing the contents of, or concealing or damaging, a book closed by the court administrative officer or junior official under Article 177.

**Article 367 (Offense of Negligent Bankruptcy)** If a debtor commits the following act, whether it is before or after the declaration of bankruptcy, and the declaration of bankruptcy becomes final, he shall be punished by imprisonment for not more than five years, or a fine not exceeding fifty million won:

<Amended by Act No. 5519. Feb. 24, 1998>

1. Act decreasing significantly the property or bearing excessive obligation, due to any extravagance, gambling or other speculative act;
2. Act bearing any obligation under a noticeably unfavorable condition with the intention of delaying the declaration of bankruptcy, or an act purchasing goods on credit transactions, and disposing of them under a noticeably unfavorable condition;
3. Act concerning the provision of security or extinguishment of an obligation, with the intention of giving any special benefit to a creditor, knowing the existence of the cause of the bankruptcy, and not belonging to the liability of the debtor himself or in the time or method;
4. Omission of not preparing any commercial book to be prepared pursuant to Act, or not making any entry therein sufficiently reflecting the present situation of the property, or making any false entry in it, or concealing or damaging it; and
5. Act changing the contents of, or concealing or damaging, a book closed by the court administrative officer or junior officer under Article 177.

**Article 368 (Offense of Fraudulent or Negligent Bankruptcy by Person in Specified Position)** If a legal representative, director, person who is equivalent to him or manager of the debtor commits act as

prescribed in the preceding two Articles, and the declaration of the bankruptcy against the debtor becomes final, that person shall be subject to the same penalty as prescribed in the preceding two Articles. This provision shall also apply to an inheritor, his legal representative and a manager in a bankruptcy of any inherited property.

**Article 369 (Offense of Violation of Guard or Leaving Residence)** (1) If a person who is ordered to be under guard pursuant to this Act, flees, or meets or communicates with any outsider without obtaining permission of the court, he shall be punished by imprisonment for not more than one year, or a fine not exceeding ten million won. <Amended by Act No. 5519. Feb. 24, 1998>

(2) If a bankrupt leaves his residence without obtaining the permission of the court, the provisions of paragraph (1) shall also apply.

**Article 370 (Offense of Fraudulent Bankruptcy by Third Person)** If a person other than the debtor and those as prescribed in Article 368, commits the act as prescribed in Article 366, or a person exercises the right of a bankruptcy creditor without authority to benefit himself or another person, he shall be punished by imprisonment for not more than ten years, if the declaration of bankruptcy against the debtor becomes final.

**Article 371 (Revocation of Compulsory Composition and Application of Penal Provisions)** In application of Articles 366, 367 and the preceding Article, the revocation of compulsory composition shall be considered as declaration of bankruptcy.

**Article 372 (Offence of Acceptance of Bribe in Bankruptcy)** (1) If the bankruptcy trustee or inspection committee gives, accepts, demands or promises any bribe in connection with his duties, he shall be punished by imprisonment for not more than five years, or a fine not exceeding fifty million won. This provision shall also apply to cases where a bankruptcy creditor, his representative or director or a person who is equivalent to him gives, accepts, demands or promises any bribe in connection with a resolution of the creditors meeting. <Amended by Act No. 5519. Feb. 24, 1998>

(2) In the cases as referred to in the preceding paragraph, the accepted bribe shall be confiscated. If it is impossible to confiscate the whole or part of it, the value thereof shall be collected.

**Article 373 (Offense of Offer of Bribe in Bankruptcy)** (1) Any person who promises, offers, or expresses his intention to offer any bribe to the bankruptcy trustee, inspection committee, bankruptcy creditor, or his representative, director or a person who is equivalent to him person, shall be punished by imprisonment for not more than three years, or a fine not exceeding thirty million won. <Amended by Act No. 5519. Feb. 24, 1998>



(2) If the person who commits the offense as referred to in the preceding paragraph, surrenders himself to justice, the punishment may be reduced or exempted.

**Article 374 (Offense of Violation of Liability for Explanation)** (1) If a person liable for explanation under Article 143, fails to provide an explanation without any justifiable reason, or renders a false explanation, he shall be punished by imprisonment for not more than one year, or a fine not exceeding ten million won. <Amended by Act No. 5519. Feb. 24, 1998>

(2) If the person who commits an offense as referred to in the preceding paragraph reports it to the court of bankruptcy, the punishment may be reduced or exempted.