



Legal Execution Department,
Ministry of Justice



Responses to Inquiries Relating to Legal Execution in in Bankruptcy Cases



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Content

- Who is an Official Receiver ? 3
- Do debtors have no right to manage their own property ? 3
- What shall a debtor do once the court has placed him/her into Receivership ? 4
- Is there any other obligation imposed on the debtor after the Investigation ? 5
- How can the debtor know the number of creditors and how many Creditors file for claim of debt repayment ? 6
- Is it possible to object if the debts claimed to be repaid to creditors'Are not correct ? 7
- Does the petitioning creditor need to file a claim of debt repayment ? 8
- Apart from filing a claim of debt repayment, does the petitioning Creditor need to do anything else ? 8
- What is the process in filing a claim of debt repayment ? 10
- Are there fees in filing a claim of debt repayment ? 11
- What types of debt can be applied for a claim of debt repayment ? 11
- Where can a claim of debt repayment be filed ? 11
- How can the creditor know the result ? And when the creditor expect the repayment ? 12
- What would the official receiver do if the debtor were someone's creditor ? 14
- What can I do if I suffer from the action or the decision of the Official Receiver ? 15
- What should the debtor do if he/she needs to travel ? 16



Who is an Official Receiver?

An official receiver is a government officer empowered under the Bankruptcy law to collect the assets of a debtor or a bankrupt and arrange to distribute them among the creditors of a debtor or a bankrupt.

Do debtors have no right to manage their own property?

This is partly incorrect. Though the law stipulates that once the the court has ordered

the debtors to be under receivership only the official receiver is vested with the authority to manage the debtor's property. The debtor may, upon an order or approval of the Court, the official receiver or of the creditors' meeting, manage his/her own property.

What shall a debtor do once the court has placed him/her into receivership?

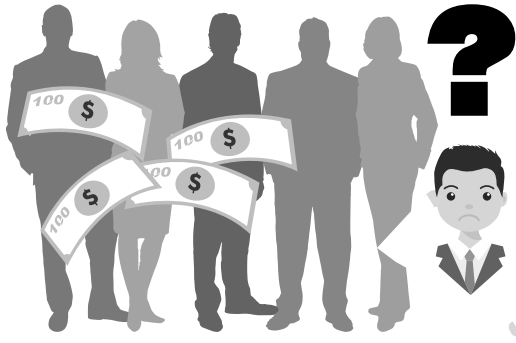
First of all, the debtor must go and take an oath before the official receiver, and submit an explanation in writing declaring all his/her property, list of his/her property and other documents relating to his/her property. In case the debtor is a juristic person, an authorised director or managing partner has the obligation to do the above and present to the official receiver the company's or partnership's seal. No power of attorney can be granted as this is a non transferrable obligation. On the day when the official receiver calls for an investigation, the debtor must present to the official receiver a list showing the business performance and assets which the official receiver shall present to the creditors' meeting for their review.

Is there any other obligation imposed on the debtor after the investigation?

In addition to being called upon for an investigation, the debtor is also obligated to attend every creditors' meeting and must present in the Court on the public examination. If the debtor becomes entitled to receive any property, the debtor shall report and submit in writing to the official receiver giving details of his/her receipts and expenditure accounts every six months. In case of change of address, the debtor must report to the official receiver his/her new address.

What rights does the debtor have?

Besides the right to manage his/her property upon an order or approval of the Court, the official receiver or of the creditors' meeting, the debtor may submit his/her proposal for the composition of his/her debts prior to or after being declared bankrupt. The debtor may also request the official receiver to fix a sum of money for expenses for maintenance of him/herself and family if there are properties collected during his/her bankruptcy. The debtor may submit an application by way of a motion to



the Court, asking for an order that he/she be discharged from bankruptcy or a withdrawal of the bankruptcy case under the conditions stipulated under the law. Once being discharged from bankruptcy, the debtor is entitled to any remaining money. In case the debtor is not in agreement with the official receiver's order, he may file a petition asking the Court to withdraw it.

How can the debtor know the number of creditors and how many creditors file for claim of debt repayment?

These information may be available when the official receiver reviews the applications for claim of debt repayment. When the court has placed the receivership, the official receiver shall publish such

order in at least one daily newspaper and in the Government Gazette. Creditors who wish to be repaid from the debtor's properties may file an application for debt repayment within 2 months from the date of publication, which in practice starts from the date of publication in the Government Gazette as it is the day after the publication in local newspaper. Any creditor who fails to file a claim of debt repayment, despite the fact that the debtor is later discharged from bankruptcy, may not be repaid. Exception applies for the secured creditors who need not to file an application but need to allow the official receiver to check the secured properties. However, if the secured creditor wishes to be repaid, he is required to file a claim of debt repayment within the same timeframe and specify the conditions for repayment as stipulated in the law.

Is it possible to object if the debts claimed to be repaid to creditors' are not correct?

Objection can be filed by either creditors or debtor if one finds the claim of debt repayment to be incorrect. Application for objection together with

its copy must be filed with the official receiver within 7 days from reviewing the claim of debt repayment. The applicant must bring the documents to the official receivers for their investigation on the appointed date.

Does the petitioning creditor need to file a claim of debt repayment?

Yes, like the other creditors the petitioning creditor must file a claim of debt repayment despite the fact that the court's order to put the debtor into receivership is based on the dispute filed by him.

Apart from filing a claim of debt repayment, does the petitioning creditor need to do anything else?

Apart from filing a claim of debt repayment, the petitioning creditor must deposit as security for costs of the official receiver after the Court has placed the debtor under receivership. In case of temporary receivership, the security amount is THB 8,000 while it is THB 10,000 in case of absolute receivership. If the official receiver asks for additional amount of



security, the petitioning creditor must provide the requested amount. The petitioning creditor may get these amount back if the debtor's property can be collected. The petitioning creditor is entrusted with the duty of monitoring all other creditor's benefits and assist the official receiver in collecting the debtor's property; e.g. identifying and leading to the seizure of the property etc. The petitioning creditor, for the sake of protecting his own interest, should also attend to every summon from the official receiver upon his receipt which includes summon for investigation, review of claim of debt repayment attendance of the creditors' meeting or public examination of the debtor. In case of change of

address, the petitioning creditor should also keep the official receiver informed. If the petitioning creditor can not be reached and there is no authorised representative, the official receiver may file a petition with the Court to revoke the adjudged bankruptcy of the debtor.

What is the process in filing a claim of debt repayment?

The creditor must first of all ask from the official receiver an application form (Lor. 29), then completely fill in the form by identifying the types of debt, the repayment amount, the secured property as well as the original evidence of such debt to be attached to the completed application form. An authorised representative, through the Power of Attorney template of the Legal Execution Department, can file the form on the creditor's behalf. In case the creditor is a juristic person, an affidavit issued by the Company and the Partnership Registrar must also be provided. The creditor may file a memorandum explaining the facts and how the debt occurred. If the official receiver finds the details complete, the creditor will not be called for investigation.

Are there fees in filing a claim of debt repayment?

There are fees of THB 200 in filing an application for performance of debt. But the fees can be exempted in case the application is filed by the judgment creditor or the debt does not exceed THB 50,000.

What types of debt can be applied for a claim of debt repayment?

Debts that can be repaid include those incurred before the court's order to place the debtor into receivership and the debt incurred by legitimate acts and not by any acts in breach of the laws or good moral. They cannot be unenforceable debts or debts which are incurred despite the creditor's awareness that the debtor is insolvent.

Where can a claim of debt repayment be filed?

In light of the Legal Execution Department's policy that aims to increase public convenience, a claim of debt repayment can now be filed at any Provincial Legal Execution Offices nationwide or at the Parties Document Section of the Secretariat Office in the central area.

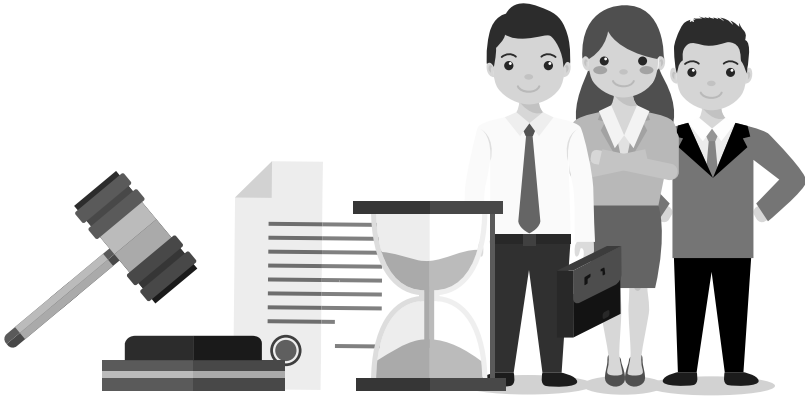
How can the creditor know the result? And when the creditor expect the repayment?

If the official receiver finds the evidences attached to the application incomplete, the creditor will be summoned for further investigation. In case of no-show, the official receiver will consider the evidences as submitted. Then, the official receiver shall submit the application for debt repayment along with his/her opinion to the consideration of the Court. After being notified of the Court order, if the creditor wishes to object to such order may appeal it to the Supreme Court within 1 month from the date of knowing or deemed knowing the order. If the court order is in favor of the creditor and the case is final, the official receiver will allocate the debtors' property to repay the creditors proportionately to the Court order. The secured creditor who applies for performance for repayment is an exception as he/she will first be repaid from the sale of the collateral and is entitled to any deficiency as an unsecured creditor.

The recent amendment of Bankruptcy Act is applied for the cases which are filed with the

Central Bankruptcy Court on 27th August 2015 or thereafter. One of the significant amendments is that where any claim for repayment of the debt is not disputed, the authorized official receiver may order the approval of repayment of the debt unless there is any reasonable ground to order otherwise. If the claim for repayment of the debt is disputed, the official receiver shall conduct an interrogation. Any interested party may appeal the order of the official receiver by filing the appealing motion with the Court within 14 days after knowing the order. (Section 106)





What would the official receiver do if the debtor were someone's creditor?

When it comes to the official receiver's attention that the debtor is a creditor of a third party and no legal action for repayment has been filed, the official receiver shall send such person a notice for repayment. If such person accepts the debtor status, the official receiver shall further proceed to get him/her to settle the payment. If ignored, the official receiver shall file a report to the Court applying for writ of execution. If such person denies the debtor status within 14 days upon receipt of the notice, the official receiver shall

summon him/her for investigation. If the debtor status is confirmed, such person shall be notified. If not, the official receiver shall remove his/her name from the list of debtors. In case the debtor status is confirmed, such person may file an objection to the Court within 14 days upon receipt of notice of confirmation. Failure to deny or object the debtor status would result in the official receiver applying from the Court for writ of execution. In the case where a legal action has already been filed, the official receiver shall step in on behalf of the debtor. But in case the debtor is a judgment creditor, the official receiver shall continue with the legal execution action.

What can I do if I suffer from the action or the decision of the Official Receiver?

Whether you are a debtor or a creditor, if you suffer from the action or decision of the official receiver, you can file an objection to the Court within 14 days from the day that you are aware of the action or the decision.

What should the debtor do if he/she needs to travel?



If the debtor needs to travel out of the country, he/she can ask for permission from the official receiver and there will be no fees imposed, provided that he/she complies with the following conditions :

1. Meet the official receiver upon receipt of notice for investigation of his/her business and assets.
2. Follow the instruction of the Court and the official receiver, act in good faith, and co-operate with the official receiver in collecting his/her assets.

Debtor can proceed as follows :

- File an application (using the prescribed form) to the official receiver declaring the necessity to travel and providing the trip details, destination, period of travel, purpose of the trip and the person responsible for the expenses.
- The official receiver will consider taking Steps 1 and 2 before granting permission.

It is not that difficult for the debtor to travel out of the country. In following the conditions stated hereinabove, the debtor shows co-operation with the official receiver and this will lead to the debtor being discharged from the bankruptcy status more quickly. According to the law, debtor will be discharged from the bankruptcy status within 3 years of a court decision to declare him/her a bankrupt, after which the debtor will be authorized to handle his/her properties and no longer requires a permission from the court of the official receiver in the next travel.

LED 4.0 Application on Mobile

**LED
Property**



**LED
Property Plus**



**LED
Debt Info**



**LED ABC
(Application
Bankruptcy
Checking)**



**LED
Streaming**



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