

(Translation)

BANKRUPTCY ACT (NO. 9)

B.E. 2559 (A.D 2016)

BHUMIBOL ADULYADEJ, REX

Given on the 19th Day of May B.E. 2559 (A.D. 2016)

Being the 71st Year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is deemed appropriate to make an amendment to the law governing bankruptcy,

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1 This Act shall be called the "Bankruptcy Act (No. 9) B.E. 2559 (A.D. 2016)".

Section 2 This Act shall be enforced from the date following its promulgation date in the Government Gazette.

Section 3 The following provisions shall be added as Chapter 3/2 – Proceedings on Business Reorganization of Debtors being Small and Medium-Sized Enterprises – Section 90/91 up to Section 90/128 of the Bankruptcy Act B.E. 2483 (A.D. 1940).

"Chapter 3/2

Proceedings on Business Reorganization of Debtors
Being Small and Medium-Sized Enterprises

Part 1

Definition

Section 90/91 In this Chapter, unless the context otherwise requires,

"Creditor" means a secured or unsecured creditor.

"Debtor" means a debtor that is a natural person, a body of persons, a non-registered ordinary partnership, a juristic ordinary partnership, a limited partnership, a limited company, or other juristic persons as prescribed by the Ministerial Regulations. Such the debtor shall operate a business in the same manner as a small and medium-sized enterprise under the law governing promoting small and medium-sized enterprises that were registered with the Small and Medium-Sized Enterprises Promotion Agency or that were registered with other State Agencies.

"Petition" means a petition for a Court Order for business reorganization and approval of the Plan.

"Petitioner" means a petitioner who files a petition for a Court Order for business reorganization and approval of the Plan.

"Plan" means a business reorganization plan.

"Shareholders of a debtor" means shareholders of a non-registered ordinary partnership, a juristic ordinary partnership, a limited partnership, a limited company, or other juristic entities, as prescribed by the Ministerial Regulations, which are debtors including interested persons in a body of persons who are debtors as well.

"Plan Executor" means an executor of the business and property of a debtor in compliance with the Plan.

"Manager of a debtor" means a managing partner, director, manager, or authorized person who is empowered to operate the business of a debtor on the date the Court issued an Order for business reorganization and approval of the Plan.

Part 2

Petition for Business Reorganization and Approval of the Plan

Section 90/92 When a debtor is unable to pay the debt and the debt is incurred by business operation that is indebted to one or several creditors on aggregate and a natural person- debtor shall have a definite amount of debt of not less than two million baht, a debtor which is a body of persons, a non-registered ordinary partnership, a juristic ordinary partnership, a limited partnership, or other juristic entities which are prescribed by the Ministerial Regulations shall have a definite amount of debt of not less than three million baht, and a debtor which is a limited company shall have a definite amount of debt of not less three million baht but not up to ten million baht, regardless of whether or not the debt becomes due immediately or will be due in the future, if there are reasonable grounds and means for business reorganization of that debtor, the persons under Section 90/93 may petition the Court for business reorganization and approval of the Plan.

If any of the following events occurs, it shall be presumed that the debtor is unable to pay a debt:

- (1) The debtor does not have sufficient assets to cover liabilities;
- (2) The debtor fails to pay the debt within a period of time provided and, thereafter, the debtor receives a letter of demand for debt payment from a creditor, then, the debtor still does not make a debt payment within thirty days;
- (3) The debtor has no assets which can be executed according to a judgment, or the creditor has applied for an execution of judgment against the debtor but the debtor has not enough assets to pay the debt;
- (4) The debtor is in default to pay the debt to any creditor and there is a circumstance showing that the debtor is in default or may be in default to pay debts to other creditors;
- (5) The debtor has not enough cash flow to pay the debt.

Section 90/93 Any persons entitled to file with the Court a petition for business reorganization and approval of the Plan are as follows:

- (1) One or several creditors on aggregate may be creditors of the debts arising from business operation and the debts shall be in a definite amount according to Section 90/92 Paragraph One;
- (2) The debtors with characteristics as stated under Section 90/92 Paragraph One.

Section 90/94 A Person under Section 90/93 shall not file a petition for the debtor's business reorganization and approval of the Plan in the events as follows:

- (1) The Court issued an order for absolute control over the property of the debtor;

(2) The Court or Registrar issued an order for dissolution or revocation of registration of the juristic debtor, or registration of dissolution was made of that juristic entity, or the juristic debtor was dissolved by other causes, regardless of whether liquidation of the said juristic person was completed or not.

(3) The Court on once occasion issued an order for a dismissal of the petition, revoked the Order for business reorganization and approval of the Plan, or revoked business reorganization of the debtor under the provisions of this Chapter within a period of six months prior to filing the petition.

Section 90/95A petition of a person under Section 90/93 for the Court to issue an order for business reorganization and approval of the Plan must explicitly describe the following:

- (1) The incapability of the debtor in respect of debt payment;
- (2) A list of names and addresses of one or several creditors to which the debtor is indebted for the debts incurred by business operation and the debts are in a definite amount according to Section 90/92 Paragraph One as well as a list of names and addresses of creditors;
- (3) Reasonable grounds and means of business reorganization.

The petitioner shall attach the Plan together with evidence showing that the creditors gave their consent to the Plan by at least two thirds of the total amount of debts.

Section 90/96 In the Plan, at least there must be the following items:

- (1) Reasons for business reorganization;
- (2) Details of assets, liabilities and obligations of the debtor at the time of filing the Petition;
- (3) Principles and methods of business reorganization
 - (a) Steps of business reorganization;
 - (b) Debt payment, extension of time for debt payment, reduction of an amount of a debt, classification of creditors by taking into account the rights of creditors in the same group which must be treated equally, provided that the creditor which is treated to disadvantage in that group shall give a written consent thereto;
 - (c) Decreases and increases in capital;
 - (d) Creation of debts and raising of capital, including sources of capital and conditions of the said debts and capital;
 - (e) Management of and putting the property of the debtor to profitable use;
 - (f) Conditions on allotment of dividends and any other benefits.
- (4) Redemption of collateral in case of secured creditors and liabilities of guarantors;
- (5) Guidelines on how to solve problems in case of a temporary lack of liquidity during the implementation of the Plan;
- (6) Methods of assignment of a claim or transfer of a debt;
- (7) The name, qualifications, written consent of the Plan Executor and remuneration;
- (8) Appointment and removal of the Plan Executor;
- (9) The duration of time for implementation of the Plan which must not exceed three years;

(10) Non-acceptance of the property of the debtor or contractual rights in the event that the property of the debtor or contractual rights have much more burden than receivable benefits;

Section 90/97 In petitioning for business reorganization, the petitioner shall pay one thousand baht for initial court fees and give a deposit of ten thousand baht to the Court at the time of filing the petition with the Court as collateral on expenses for which the petitioner shall be responsible in petitioning for business reorganization, or pay a sum at the discretion of the Court.

In the event that the petitioner refuses to give a deposit as collateral under the previous paragraph, it shall be deemed that the petitioner abandoned the petition with the Court for it to strike the case out of the case list.

Section 90/98 No petitioner shall be permitted to withdraw the petition unless the Court gives permission to do so. However, if the Court has issued an Order for business reorganization and approval of the Plan, the Court shall not be able to give permission to withdraw the petition.

In the event that the petitioner abandons the petition, or is in default of appearance at the Court hearing, or the Court gives permission to withdraw the petition, prior to the court order for disposal of the case, publication shall be made in one widely distributed daily newspaper in order to let the creditors and debtor know at least seven days in advance.

Part 3

Consideration of the Petition for Business Reorganization And Approval of the Plan

Section 90/99 Upon the Court's having issued an order for acceptance of the petition, an enquiry must be conducted urgently and the Court shall publicize its acceptance of the petition as well as the scheduled date and time of the enquiry in one widely distributed daily newspaper at least fifteen days prior to the scheduled date of the enquiry. Also, copies of the petition and notification of the scheduled date and time of the enquiry must be sent to the debtor, creditors, and the Official Receiver. Then, the Partnerships and Companies Registrar or relevant Juristic Entities Registrar must be notified thereof in order that the Registrar shall also record the Court order in the registry. In this regard, notification shall be sent at least seven days prior to the enquiry date.

The debtor or creditor may submit an objection at least three days prior to the first enquiry session.

Section 90/100 In the enquiry of the petition, the Court shall investigate to find out the facts according to the provisions of Section 90/92 and Section 90/95 and the Plan must be in line with the criteria so that the Court is able to give approval under Section 90/101. If the facts warrant and there are reasonable grounds for business reorganization and the Plan is in line with the criteria, including the fact that the petitioner submitted the petition in good faith, the Court shall issue an Order for

business reorganization and approval of the Plan, otherwise it shall dismiss the petition.

Where no one objects to the petition, if the Court deems it appropriate, it may cancel the enquiry and may issue an Order for business reorganization and approval of the Plan.

Section 90/101 Approval of the Plan by the Court must be in line with the criteria as follows:

- (1) The Plan has the complete items pursuant to Section 90/96;
- (2) The Plan is approved by creditors of at least two thirds of the total amount of debts;
- (3) A proposal for debt payment according to the Plan is in respective order of ranking as provided by the law governing distribution of property in a bankruptcy case, unless otherwise a disadvantaged creditor consents in writing to a proposal for debt payment in different order of ranking;
- (4) When implementation of the Plan is completed, creditors shall receive debt payment in an amount of not less than the case where the Court adjudicates that the debtor shall be bankrupt; and
- (5) Creditors in the same group shall be treated equally, unless otherwise a disadvantaged creditor consents in writing thereto.

Where the Plan does not have complete items as stated under Section 90/96, the Court shall inquire the petitioner thereof. If the Court deems that a missing item in the Plan is not essential matter in business reorganization of the debtor, it shall be deemed that the Plan has complete items according to Section 90/96.

Section 90/102 Where the Court orders for dismissal of the petition, the Court shall publicize that order in one widely distributed daily newspaper. Also, the Court shall urgently notify the Official Receiver, Partnerships and Companies Registrar or relevant Juristic Entities Registrar of the said order so that the Registrar shall also record the Court order in the registry.

Section 90/103 The provisions of Section 90/11 shall apply mutatis mutandis to the Court's enquiry into the petition.

Section 90/104 Commencing from the date the Court ordered for acceptance of the petition for consideration up until the due date of the implementation period of the Plan, or the date the Plan was implemented completely, or the date the Court ordered for dismissal of the petition or disposal of the case, revocation of the order for business reorganization and approval of the Plan, or cancellation of business reorganization under the provisions of this Chapter.

- (1) Any filing of a lawsuit or an application with the Court for judgment or dissolution of a juristic entity of the debtor is prohibited. If there was a prior lawsuit or a prior application filed with the Court for the so-doing, the Court shall stay its adjudication of such the lawsuit;
- (2) A Company Registrar shall not issue an order for dissolution or deregistration of the juristic entity-debtor and any other way of dissolution of that juristic entity is prohibited;
- (3) A civil lawsuit against the debtor respecting the property of the debtor and a proposal for resolution of a dispute to an arbitrator respecting the liability of or damages to the debtor are prohibited in the case that the debt was

incurred prior to the Court's order for business reorganization and approval of the Plan. The debtor is also prohibited from being a respondent in a bankruptcy case. A prior lawsuit filed with the Court or a prior proposal for resolution of a dispute made to an arbitrator shall be stayed, unless the Court accepting the petition orders otherwise;

- (4) Execution of the Court's judgment against the debtor's property is prohibited if the debt was incurred prior to the date of the Court's order for business reorganization and approval of the Plan. In the event that execution of the Court's judgment is already underway, the Court shall stay its execution of that judgment, unless the Court accepting the petition orders otherwise, or the execution of the judgment has been completed before the official executing the judgment is made aware of the fact that the petition was submitted, or the execution of the Court's judgment compelling the debtor to deliver certain property has been completed before that date.

In the event that the seized or attached property is perishable, or if there is any retention, and any damage or expenses may exceed the value of that property, the official executing the judgment shall sell the property by auction or by any other appropriate method. These monies shall be retained. If the Court orders for business reorganization and approval of the Plan, the official executing the judgment shall deliver the monies to the Plan Executor for expenditure. If the Court issues an order for dismissal of the petition, disposal of the case, revocation of the order for business reorganization and approval of the Plan, or cancellation of the business reorganization, the official executing the judgment shall pay monies to a judgment creditor(s).

- (5) A secured creditor is prohibited from enforcing debt payment against the secured property, unless permission is obtained from the Court accepting the petition;
- (6) A creditor with lawful permission to enforce debt payment is prohibited from seizing or selling the property of the debtor;
- (7) An owner of the property, which is essential to the business operation of the debtor and which is under a hire-purchase agreement, a sale and purchase agreement, or other agreements with conditions or time frames for transfer of rights of ownership, or a lease agreement with the mutually agreed term which has not yet expired, is prohibited from seizing the subject property being in possession of the debtor or other persons who enjoy the debtor's rights. Also, the owner of the property is prohibited from filing a lawsuit to enforce execution of a judgment in respect of the property and debts arising out of such agreements. Those prior filing of lawsuits shall be stayed, unless the Court accepting the petition orders otherwise, or after the Court has ordered for business reorganization and approval of the Plan, the debtor or Plan Executor, as the case may be, is in default of making payment on two consecutive occasions of the hire-purchase instalments, price, a consideration for utilization of property or a contractual rent, or breaches an essential term of the agreement;
- (8) The debtor is prohibited from entering into a transaction that will result in the disposal, sale, transfer, rent, payment of or incurring a debt, or any act which may encumber its property, except where necessary for the purpose of carrying on its ordinary business, unless the Court accepting the petition orders otherwise;

- (9) A Court injunction or an order for temporary control over the debtor's property obtained prior to the date the Court issued an order accepting the petition for consideration in respect of the seizure, attachment, prohibition of disposal, sale or transfer of the debtor's property shall be stayed or amended as the Court deems it appropriate. If, thereafter, the Court issues an order for dismissal of the petition, disposal of the case, revocation of the Order for business reorganization and approval of the Plan, or cancellation of business reorganization, the Court shall issue an order respecting temporary measures or temporary control over the debtor's property as deemed appropriate;
- (10) Public facility providers, e.g., electricity, water, telephone services are prohibited from stopping rendering their services to the debtor, except where permission is obtained from the Court accepting the petition, or after the date the Court issued an Order for business reorganization and approval of the Plan, the debtor or Plan Executor, as the case may be, fails to pay for the services, arising after the date the Court issued an Order for business reorganization and approval of the Plan, on two consecutive occasions. However, public facility providers are not prohibited from filing a request with the Court accepting the petition to issue an order as the Court deems it appropriate for protection of the interests of the requester.

A Court judgment, a Court order, or an arbitrator's final decision, which contradicts the provisions of any subsection of Paragraph One, shall not be binding on the debtor.

Any order issued by the Partnerships and Companies Registrar, a relevant Juristic Entities Registrar, or a person with power and duty concerning the juristic entity-debtor, a juristic act or any debt payment, which contradicts the provisions of any subsection of Paragraph One, shall be void.

Section 90/105 The provisions of Section 90/13, Section 90/14, and Section 90/15 shall apply, mutatis mutandis, to an amendment or revocation of the limitations of the creditor's rights, implementation which is deemed to be protection over the secured creditors, the statute of limitations and a period of time in respect of the Court proceedings and execution of the Court's judgment, and a period of time for submission of the dispute to arbitration.

Part 4

Procedures after the Court Order for

Business Reorganization and Approval of the Plan

Section 90/106 Once the Court issued an Order for business reorganization and approval of the Plan, the Court shall publicize that Order in one widely distributed daily newspaper and urgently notify the Partnerships and Companies Registrar or relevant Juristic Entities Registrar thereof in order for the Registrar to record the Court Order in the registry. Also, an Official Receiver must be notified of the said Order for it to be publicized in the Government Gazette.

Section 90/107 The Plan approved by the Court shall be binding on the creditors who attended a meeting at which a resolution for the Plan was passed or those who were invited to attend the meeting for the said resolution.

Section 1055 (1), (2), and (4), Section 1056, Section 1057 (1) and (2), Section 1117, Section 1119, Section 1145, Section 1220 up to Section 1228, and Section 1238 up to Section 1243 of the Civil and Commercial Code shall not apply to the Plan under this Section.

The Court Order for business reorganization and approval of the Plan does not have an impact on or a change in the liability of a person who is a partner of the debtor or having joint liability with the debtor, or who is a guarantor or acting as a guarantor of the debtor, for the debt existing prior to the date of the Court Order. Also, it has no effect causing such a person to be liable for the debt incurred under the Plan since that date unless otherwise such a person consents to it in writing.

Section 90/108 During implementation of the Plan, if a creditor submits a request to the Court in respect of the debt incurred prior to the Court Order for business reorganization and approval of the Plan stating that the debtor fails to show details of its own debt, or the amounts of the outstanding debts of the creditors are incorrect, the Court shall schedule a trial urgently and send a copy of the request to the Official Receiver, creditors, Plan Executor, and debtor.

After having examined and found the facts according to the creditor's request under Paragraph One, the Court shall enquire the Plan Executor and debtor on the said grounds. If the Court found that the debt which was missing or existing in the description of the debt was a mistake or a minor error, the Court shall issue an order for the Plan Executor or debtor to amend the Plan for the missing debt or to correct the said error. Also, the Plan shall still be deemed to be binding on the creditors. If the Court found that the debt missing or existing in the description of the debt was a mistake or an error in essential substance, the Court shall revoke the Order for business reorganization and approval of the Plan.

Section 90/109 Where the Court issues an Order for business reorganization and approval of the Plan, power and duty to manage the business and property of the debtor and legal rights of shareholders of the debtor, except for the right to receive dividends, shall be vested upon the Plan Executor.

Section 90/110 The Plan Executor may request the Court to issue an order for permission to remake the by-laws of the debtor, amendment to the by-laws or contents of the memorandum of association of the debtor according to the guideline in the Plan.

When the Court issues an order for permission under Paragraph One, the provisions of Section 90/106 shall apply *mutatis mutandis*.

Section 90/111 The Plan Executor shall retire from office under the following circumstances.

- (1) Death;
- (2) A juristic entity which is the Plan Executor is dissolved;
- (3) The Court allows the Plan Executor to resign;

- (4) The Plan Executor's property is under control by the Court order, or the Plan Executor is adjudged by the Court to be incompetent or quasi-incompetent;
- (5) Being imprisoned pursuant to the Court's final judgment, except for offences arising out of negligence or for petty offences;
- (6) Retirement from office pursuant to the conditions provided by the Plan;
- (7) When the duration of implementation of the Plan comes to an end, or the implementation is successful according to the Plan;
- (8) The Court orders for retirement from office according to Section 90/113.

Section 90/112 The Plan Executor shall make a report on implementation in compliance with the Plan to be presented to the Official Receiver on a quarterly basis. The report must be in the form provided by the Official Receiver.

Section 90/113 Where the Plan Executor fails to carry out the implementation under the Plan, or does the duty in bad faith, or causes damage to the creditors or debtor, or there are other grounds that cause inappropriateness for him to be the Plan Executor. When the official receiver makes a report to the Court, creditors, manager of the debtor, or the debtor files a request with the Court, the Court may issue an order for the Plan Executor to retire from office or any order as it may be deemed appropriate.

Section 90/114 After the Plan Executor has retired from office and still has some activities under the Plan that must be carried out, if a creditor or debtor nominates a person as a new Plan Executor to the Court and there is no objector, the Court shall appoint that person as Plan Executor.

Where there is an objector to the nomination, the Court shall order the Official Receiver to summon a meeting of creditors soonest in order to pass a resolution on selection of a new Plan Executor, and the resolution of the meeting of creditors shall be passed by at least two thirds of the total amount of debts of the creditors present at the meeting of creditors, in person or by proxy, and casted votes on that resolution. Also, the Official Receiver shall present that nomination to the Court for it to issue an order appointing that person as Plan Executor.

After having held a meeting of creditors pursuant to Paragraph Two, however, the meeting of creditors may not be able to pass a resolution for selection of a new Plan Executor, the Official Receiver shall so report to the Court. In this regard, the Court shall urgently schedule a conference to consider the report of the Official Receiver, and shall provide the Official Receiver with ample time to send notifications to the debtor and creditors at least three days in advance. After having considered documentary evidence on file and listened to the explanation of the Official Receiver, creditors, and debtor, the Court may issue an order appointing any person as Plan Executor, or an order revoking the Order for business reorganization and approval of the Plan, or any order as deemed appropriate.

The provisions of Section 90/106 shall apply mutatis mutandis.

Section 90/115 Where there is a cause resulting in the Plan Executor's temporary failure to perform his duty, or during the time of retirement of the Plan Executor and the Court has not yet appointed a new Plan Executor, the Court shall issue an order appointing one or several persons to be Temporary Plan Executor(s) until that cause comes to an end, or until the Court issues an order for appointment

of a new Plan Executor. In this regard, the Temporary Plan Executor(s) shall have the same power and duty as that of the Plan Executor.

The provisions of Section 90/106 shall apply mutatis mutandis.

Part 5

Revocation of the Order for Business Reorganization and Approval of the Plan, and Cancellation of Business Reorganization

Section 90/116 If the debtor, Manager of the debtor, Plan Executor, or Official Receiver, as the case may be, finds that business reorganization is successfully implemented under the Plan, a report must be made without delay to the Court for it to issue an order for cancellation of the business reorganization. Also, the Court shall schedule a hearing if it found that the implementation of the business reorganization was successful under the Plan, then, the Court shall issue an order for cancellation of the business reorganization without delay. However, if the Court found that the business reorganization was still unsuccessful according to the Plan, in the event that there is implementation time remaining pursuant to the Plan, the Court shall issue an order for continuation of the business reorganization within the time provided under the Plan. If during the so-doing, the implementation time under the Plan has come to an end but obviously it can be seen that the Plan is almost successful, the Court may extend the time of implementation under the Plan as may be deemed appropriate accordingly on a case by case basis. Otherwise, the Court shall continue as per Paragraph Two.

When the implementation time under the Plan comes to an end, but the business reorganization is still unsuccessful according to the Plan, the Plan Executor or Official Receiver, as the case may be, shall so report to the Court within fourteen days from the end of implementation time under the Plan. If the Court finds it appropriate, the Court shall issue an order for revocation of the Order for business reorganization and approval of the Plan or an order for cancellation of the business reorganization.

Commencing from the end of implementation time until the Court issued an order for revocation of the Order for business reorganization and approval of the Plan or an order for cancellation of the business reorganization, the Plan Executor shall still remain in power and have duty to manage the business and property of the debtor as may be deemed necessary.

Section 90/117 Where the Court issues an order for revocation of the Order for business reorganization and approval of the Plan or an order for cancellation of the business reorganization, the Court shall let the Official Receiver, Plan Executor, debtor, and manager of the debtor know of the said order without delay.

Upon having acknowledged the order of the Court under Paragraph One, the Plan Executor shall deliver to the debtor or manager of the debtor its property, seals,

account books, and documents concerning the property and business of the debtor soonest.

The provisions of Section 90/106 shall apply mutatis mutandis.

Section 90/118 Where the Court issues an order for revocation of the Order for business reorganization and approval of the Plan, the power and duty in managing the business and property of the debtor shall return to the debtor or manager of the debtor, and shareholders of the debtor shall return to assume their legal rights.

Section 90/119 The order for cancellation of business reorganization does not have an impact on a change in the debt obligations of the debtor and creditors under the Plan, and the effects shall be as follows:

- (1) The debtor or manager of the debtor returns to assume power in managing the business and property of the debtor;
- (2) Shareholders of the debtor return to assume their legal rights;
- (3) The remuneration of the Plan Executor and the debt incurred by the Plan Executor in the interests of business reorganization of the debtor, except for tort liability, are preferential debts over the total property of the debtor and shall be in the same priority level as that of the first preferential right pursuant to Section 253 of the Civil and Commercial Code.

Section 90/120 When the Court issues an order for revocation of the Order for business reorganization and approval of the Plan or an order for cancellation of the business reorganization, but the debtor or manager of the debtor has not yet assumed management of the business and property of the debtor, the Plan Executor shall have power of management to maintain the interests of the debtor insofar as circumstances merit, until the debtor or manager of the debtor assumes management of the business and property of the debtor.

If the manager's position of the debtor was vacant on the date the Court issued an order for revocation of the Order for business reorganization and approval of the Plan or an order for cancellation of the business reorganization and, thus, causing discontinuation of business operation, the Official Receiver shall summon a meeting of shareholders of the debtor, or take legal steps in order to appoint a manager of the debtor soonest.

In the event that a meeting must be convened to proceed as per Paragraph Two, the Official Receiver shall be Chairman of the said meeting, and it shall be deemed the meeting of the debtor.

Section 90/121 Orders of the Court for revocation of the Order for business reorganization and approval of the Plan and cancellation of the business reorganization do not have an impact on any act which the Plan Executor has done prior to such Court orders.

Part 6

Offences

Section 90/122 Any person who files a petition, pursuant to Section 90/92, which is fraudulent in essential substance and which may cause damage to the debtor, creditors, other persons, or to the public in general, shall be liable to a fine not exceeding three hundred thousand baht, or shall be imprisoned for a term not exceeding three years, or both.

Section 90/123 Any person who violates the provisions of Section 90/104 (8) shall be liable to a fine not exceeding three hundred thousand baht, or shall be imprisoned for a term not exceeding three years, or both.

Section 90/124 Any debtor or manager of the debtor who, in bad faith, conceals the description of debts in essential substance, or declares outstanding debts due to the creditors fraudulently in essential substance, that may cause damage to the creditors, shall be liable to a fine not exceeding five hundred thousand baht, or shall be imprisoned for a term not exceeding five years, or both.

Section 90/125 Any person who is aware of the business or any information of the debtor under business reorganization through his performance of power and duty provided by this Chapter, and in respect of which it is normal practice for the debtor under reorganization to keep such undisclosed matter confidential, if that person discloses such confidential information for whatever reason provided that the disclosure of the information is made under the duty or for the interests of the business reorganization under this Chapter, that person shall be liable to a fine not exceeding three hundred thousand baht, or shall be imprisoned for a term not exceeding three years, or both.

Section 90/126 Any person who is a Plan Executor or temporary Plan Executor who fraudulently performs or omits to perform his duties, or is in violation of or fails to comply with the provisions of this Chapter, in an attempt to cause damage to the debtor or creditors, shall be liable to a fine not exceeding five hundred thousand baht, or shall be imprisoned for a term not exceeding five years, or both.

Section 90/127 Where an offender under this Chapter is a juristic entity, if its offence is a result of an order or omission of the order, or a performance or omission of the performance which falls within the duties of a director, manager, or any person responsible for the business operation of that juristic entity, that offender shall be subject to punishment as provided for those offences.

Section 90/128 The debtor and creditors shall also be deemed injured persons who have suffered damages under the provisions of this Chapter."

Countersigned

General Prayut Chan-ocha

Prime Minister

Remarks: Reasons for promulgation of the Act are as follows:

Whereas the proceedings in respect of business reorganization of debtors still do not cover the debtors conducting businesses of small and medium-sized enterprises which include natural persons, a body of persons, unregistered ordinary partnerships, juristic ordinary partnerships, limited partnerships, or limited companies that are in a significant number in the present economic system and which encounter the problem on a lack of temporary financial liquidity, therefore, it is in the interests of the debtors which are having difficulties in making debt payments to have an opportunity for business reorganization and for not having to fall into the status of being bankrupt if there is a way to undertake business reorganization. Therefore, it is necessary that this Act be enacted.