

99066002187000, 99066002187000

Opening of insolvency proceedings

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/121361811/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99066002187000, 99066002187000
Leistungsbezeichnung I	Opening of insolvency proceedings
Leistungsbezeichnung II	Resolution to open insolvency proceedings
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Nordrhein-Westfalen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	Eröffnung (187)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	23.04.2021

Modul	Sachverhalt
Fachlich freigegeben durch	Ministry of Justice of the State of North Rhine-Westphalia
Handlungsgrundlage	<p>§§ 16 ff. Insolvency Code (InsO)</p> <p>https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000</p> <p>https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000</p>
Teaser	Insolvency proceedings are opened by a court order if an admissible and substantiated application for the opening of insolvency proceedings has been filed.
Volltext	<p>Insolvency proceedings are only opened upon written application. The creditors (so-called third-party application) and the debtor (so-called own application) are entitled to file an application.</p> <p>This application must be admissible and justified.</p> <p>As part of the admissibility of an insolvency application, the insolvency court checks in particular whether the person or persons who signed the application were authorized to do so.</p> <ul style="list-style-type: none"> • In the case of legal entities (e.g. corporations or registered associations), each legal representative (managing director, member of the board of directors), • in the case of a legal entity, any shareholder in the event of a lack of management, • in the case of a public limited company or a cooperative, every member of the supervisory board is also entitled to submit an application, • in the case of companies without legal personality (e.g. OHG or KG), each personally liable partner is individually entitled, <p>to submit their own application on behalf of the legal entity, even if they are otherwise only authorized to represent the legal entity jointly with other persons. In addition, if an application is submitted by a shareholder of a legal entity or a member of the supervisory board, the lack of management must also be substantiated. Special rules apply in the case of an own application due to imminent insolvency.</p>

Modul

Sachverhalt

The key aspect for the justification of the insolvency application is the question of whether there are grounds for opening insolvency proceedings. The grounds for opening insolvency proceedings for both own and third-party applications are

- inability to pay (§ 17 InsO) and
- (only for legal entities) over-indebtedness (§ 18 InsO)

come into consideration.

In the case of an application by the company itself, the

- imminent insolvency (§ 19 InsO)

may also be considered.

In addition, insolvency proceedings will only be opened if the future insolvency estate is likely to be able to finance the costs of the insolvency proceedings if the application for insolvency is admissible and justified.

If a natural person applies for insolvency and does not have sufficient assets to finance the insolvency proceedings, it may be possible to apply for a deferral of the costs of the proceedings (read Deferral of procedural costs in insolvency proceedings).

Once the insolvency court has completed its examination and determined that the application is admissible and well-founded, and it is likely that the insolvency proceedings will be financed by the insolvency estate or secured by a deferral of procedural costs, the insolvency proceedings will be opened by order.

Erforderliche Unterlagen

Application for the opening of insolvency proceedings and, if applicable, further documents

Voraussetzungen

- Application for the opening of insolvency proceedings
- Application is admissible
- Application is well-founded;
- the main point of examination here is that there is a reason for opening insolvency proceedings

Modul	Sachverhalt
	<p>The following may be considered as grounds for opening proceedings:</p> <ul style="list-style-type: none"> • insolvency possibly over-indebtedness Impending insolvency, if applicable • Future insolvency assets can probably finance the costs of the insolvency proceedings (or deferral of the costs of the proceedings is granted upon application)
Kosten	<p>Insolvency proceedings are subject to costs. Court fees are incurred, the amount of which depends on the value of the insolvency estate in each individual case (read: Costs of insolvency proceedings). If certain conditions are met, it is possible to apply for a deferral of the procedural costs (further information on this can be found at: Deferral of procedural costs in insolvency proceedings).</p>
Verfahrensablauf	
Bearbeitungsdauer	
Frist	
weiterführende Informationen	https://www.justiz.nrw.de/BS/formulare/insolvenz/index.php
Hinweise	
Rechtsbehelf	
Kurztext	<ul style="list-style-type: none"> • Insolvency proceedings are opened by court order • Prerequisite is an admissible and substantiated application • The application is justified in particular if there are grounds for opening insolvency proceedings • In particular, insolvency and over-indebtedness are grounds for opening insolvency proceedings
Ansprechpunkt	
Zuständige Stelle	
Formulare	Application for the opening of insolvency proceedings
Ursprungsportal	Insolvenzverfahren Eröffnung, Opening of insolvency proceedings