

99066002058003

Apply for the opening of insolvency proceedings (consumer insolvency)

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/6000155-99066002058003/L100009>

Modul	Sachverhalt
Leistungsschlüssel	99066002058003
Leistungsbezeichnung I	Apply for the opening of insolvency proceedings (consumer insolvency)
Leistungsbezeichnung II	Apply for the opening of insolvency proceedings (consumer insolvency)
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	

Modul	Sachverhalt
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> • §§ 304 ff. Insolvenzordnung (InsO) – Verbraucherinsolvenzadverfahren • Gerichtskostengesetz (GKG) – Kostenverzeichnisse (Anlagen)
Teaser	Consumer insolvency proceedings are open to all consumers: Private individuals, provided they are not self-employed, but also former entrepreneurs under certain conditions.
Volltext	<p>Application for the opening of consumer insolvency proceedings in accordance with Section 305 of the German Insolvency Code (InsO)</p> <p>Consumer insolvency proceedings are open to all consumers: Private individuals, provided they are not self-employed, but also former entrepreneurs under certain conditions.</p> <p>Loss of employment, personal fate or financial losses are some of the reasons why you may find yourself permanently unable to pay. If you are privately indebted in this way, as a "consumer" in the above sense, you must first reach an out-of-court settlement with your creditors on the basis of a plan. If no agreement is reached in the out-of-court debt settlement, the consumer insolvency route is open to you at your request.</p> <p>Attempted settlement before insolvency</p> <p>Before initiating insolvency proceedings, you must first have attempted an out-of-court debt settlement with your creditors on the basis of a plan within the last six months. To do this, you need the support of a so-called suitable person or body (lawyers or tax advisors or expressly authorised debt counselling centres).</p>
Erforderliche Unterlagen	<ul style="list-style-type: none"> • completely filled out application form

Modul

Sachverhalt

"Insolvenzantrag / Eröffnungsverfahren (Verbraucherinsolvenz)" including application for residual debt discharge (Antrag auf Restschuldbefreiung)

- Extensive information and evidence, including Personal details Certificate of the failure of the out-of-court settlement attempt Overview of assets Index of assets Index of creditors and claims Debt settlement plan for the court proceedings Declarations of completeness

A list of all attachments and required evidence is enclosed with the application form.

Voraussetzungen

Eligible applicants

Natural persons who are not self-employed and - under certain conditions - former self-employed persons can file an own application. A third-party application is filed by an insolvency creditor. If debtors have not yet filed their own insolvency petition in this case, they are given the opportunity to attempt to settle their debts and file their own insolvency petition. This is because an application for residual debt discharge is only possible if the debtor files their own application to open insolvency proceedings.

Who can go through consumer insolvency proceedings?

Private individuals:

The simplified insolvency proceedings are reserved exclusively for private individuals (natural persons) who are to be understood as consumers. These include in particular

- Employees and job seekers
- Recipients of pension benefits
- Pensioners

Failed former entrepreneurs under certain conditions:

If you were previously self-employed, you can also apply for consumer insolvency under the following

Modul

Sachverhalt

conditions:

- You live in manageable financial circumstances and have fewer than 20 creditors.
- There are no claims against you from previous employment relationships (for example, wage claims from former employees or unpaid social security contributions).

In all other cases, the standard insolvency proceedings must be completed. Even then, however, a discharge of residual debt is possible for natural persons, such as self-employed entrepreneurs.

Kosten

- Costs of the court settlement
- Costs of the insolvency proceedings
- If applicable: lawyer's fees

The costs of the proceedings depend on the value of the assets to be distributed and the expenses incurred.

Application for deferral of procedural costs

If you are not in a position to pay the court costs, you can also apply for a deferral of the court costs with the application for the opening of insolvency proceedings. The prerequisite for this is that you have also applied for discharge of residual debt.

Notes:

- The deferral of procedural costs does not include the costs of previous unsuccessful judicial debt settlement proceedings. However, this is generally unproblematic, as the debt counselling centres usually provide their services free of charge.
- In exceptional cases, it may also be possible to obtain counselling assistance if a lawyer advises you on the consumer insolvency proceedings.

Verfahrensablauf

Counselling and Help

The information and evidence required for the application to open insolvency proceedings is extremely varied and comprehensive. If you have any

Modul

Sachverhalt

questions, you can contact the recognised advice centre you have already been in contact with for out-of-court debt settlement or the competent local court (insolvency court).

Although you can submit the application yourself, expert support from lawyers or debt counselling centres is recommended. Please note that you will incur costs - enquire in advance about the possibilities of cost assistance (counselling assistance, legal aid, deferral of procedural costs). Only in very exceptional cases will the court itself order legal representation.

Application

You must apply for the opening of consumer insolvency proceedings in writing using the prescribed official forms. Electronic submission is only permitted if the electronic mail is provided with a qualified electronic signature in accordance with the Signaturgesetz. If you use unauthorised forms, this alone can lead to the insolvency application being rejected. Please follow the instructions in the information sheet enclosed with the application form.

The application to open insolvency proceedings is usually accompanied by an application for discharge of residual debt and a deferral of procedural costs.

- Please fill out the forms completely and legibly; do not make any changes to the form - if there is not enough space on the form, attach a separate sheet.
- Compile the necessary supporting documents and evidence.
- Make sure to name all creditors, as only their claims will be included in a possible settlement. If the creditors and their claims are incompletely named, this may also result in the discharge of residual debt and deferral of procedural costs being refused.
- Submit the complete application documents to the competent insolvency court.

Important! Make sure you keep a complete copy of the application documents with the same content. You will need these in the further proceedings.

Modul

Sachverhalt

Judicial Debt Settlement

As a first step, the insolvency court will usually work with you and your creditors to achieve a judicial debt settlement (debt settlement plan procedure).

- The insolvency court examines your application documents. If the requirements are met, it will first initiate the judicial debt settlement. If the documents are incomplete, the court will set you a grace period.
- At the court's request, submit a copy of the debt settlement plan and a statement of assets and liabilities for each creditor.
- If necessary, the court will arrange for protective measures (e.g. a general prohibition on disposal or the suspension / cancellation of enforcement measures by individual creditors)
- You do not have to pay an advance on court costs at this stage. If you are clearly unable to bear the subsequent costs of the proceedings, you can apply now for a deferral of the costs of the proceedings.

Note: The insolvency application is suspended until the court decision on the debt settlement.

Examination

The court will examine whether an agreement can be reached between you and the creditors.

If the court considers this to be futile, it may waive the implementation of the plan proceedings. (Example: In out-of-court proceedings, most creditors have rejected the debt settlement plan with the same content).

If the conditions for a settlement are met, the court submits the debt settlement plan, the schedule of claims and the statement of assets and liabilities to the creditors.

Approval

If all creditors expressly or tacitly agree within one month, the debt settlement plan is deemed to have

Modul

Sachverhalt

been accepted.

Rejection

If the plan is rejected, a revised plan can be submitted within one month. If only a majority of the creditors accept the plan in terms of head and claim majority ("head and sum majority"), the court may replace the approval by resolution. Condition: None of the creditors may be worse off as a result of the settlement than in the case of consumer insolvency proceedings.

In this case, the debt settlement plan has the effect of a "compulsory settlement".

Important! Those creditors who did not have the opportunity to participate in the debt settlement plan can continue to assert their full claim against you.

Effects of the Settlement

- Acceptance of the debt settlement plan is equivalent to a settlement, the court proceedings are ended and any security measures are cancelled.
- You are relieved of the original claims and only have to fulfil the liabilities listed in the debt settlement plan.

Opening of Insolvency Proceedings

If the consent of the opposing creditors could not be replaced or the insolvency court has waived the judicial debt settlement proceedings due to lack of prospects, the court can open the insolvency proceedings, granting a deferral of procedural costs if necessary. This gives you the chance to get rid of your debts within three years of the proceedings being opened - or earlier under certain circumstances.

Bearbeitungsdauer

Frist

- Delivery of the certificate of out-of-court debt settlement: maximum six months before filing the application
- Term for the creditors' statement: one month
- Court decision on the debt settlement plan: usually within three months

Modul	Sachverhalt
weiterführende Informationen	
Hinweise	
Rechtsbehelf	
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	