

99066002058003, 99066002058003

Conducting consumer insolvency proceedings

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/438732108/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99066002058003, 99066002058003
Leistungsbezeichnung I	Conducting consumer insolvency proceedings
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Niedersachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	Durchführung (058)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher	

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Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021
Fachlich freigegeben durch	
Handlungsgrundlage	http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000 http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000
Teaser	If you have an (imminent) insolvency and you are not self-employed, you can apply for consumer insolvency proceedings.
Volltext	<p>Many people are in debt. Debts become a serious problem if they can neither be paid off with one's own income nor with assets. This has serious consequences:</p> <p>Creditors receive little or no more money. Debtors, on the other hand, are usually deprived of all income or assets that exceed their subsistence level. They suffer an economic decline, live in modest circumstances and usually have no prospect of better times.</p> <p>If the financial situation of a household worsens, it is important to approach the creditors at an early stage (possibly with the help of third parties, e.g. a debt counselling centre) and to look for solutions together with them, e.g. by agreeing installment payments. This can make it possible to avert a financial collapse. If this is no longer possible, the consumer insolvency procedure should help.</p> <p>In the event of your (imminent) insolvency, these insolvency proceedings serve to realise your existing (seizure-free) assets and to distribute the proceeds equally to your creditors.</p> <p>With the initiation of consumer insolvency proceedings, you have the opportunity to file an application for discharge of residual debt and (if all conditions are met) to be released from the existing liabilities.</p>

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Consumer insolvency proceedings apply to all natural persons:

- who (currently) do not exercise or have not (in the past) carried out any self-employed economic activity,
- who have carried out a self-employed economic activity in the past, but whose financial circumstances are manageable and against whom there are no claims arising from employment relationships. Your financial circumstances are only considered manageable if you have fewer than 20 creditors at the time when the application for the opening of insolvency proceedings is filed. Receivables from employment relationships are, in particular, claims of the tax authorities from wage tax as well as claims from social security institutions for contributions from your former employees.

For all other natural persons, the so-called business insolvency proceedings are the right type of procedure (read more under "Conducting standard insolvency proceedings against a (former) company". There, too, there is the possibility of discharge of residual debt.

A prerequisite for the initiation of consumer insolvency proceedings is the existence of the reason for insolvency of the insolvency that has occurred or is imminent. A situation must have arisen in which you are currently or in the foreseeable future no longer able to meet the due payment obligations on time and in full.

Out-of-court settlement attempt

As an insolvent consumer, you can only apply for the opening of insolvency proceedings against your assets if you have previously made a serious attempt to reach an out-of-court agreement with your creditors on debt settlement. This is a mandatory prerequisite for the court proceedings and to be proven when filing the application.

The attempt at agreement must be based on an orderly plan. It is not enough to ask the creditors in

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general terms whether they are prepared to reach an amicable agreement with you.

You must make a proposal to your creditors on how you would like to adequately settle your debts. As a rule, you can set up a payment plan in which you specify fixed instalments and exact payment dates that are to replace the payments originally owed and the dates applicable to them.

A serious attempt at an agreement also requires that you disclose your income and assets. Creditors must be able to judge on the basis of the information whether the proposed modification of the payment obligations is necessary and whether it corresponds to their financial possibilities.

Application to open proceedings

If the out-of-court settlement fails despite serious efforts, you can apply to the insolvency court for the opening of insolvency proceedings.

Important: Together with the insolvency application, you must submit a certificate from a suitable body about the failure of your out-of-court debt settlement attempt.

Suitable persons who may issue a certificate of the out-of-court settlement attempt are, inter alia:

- members of the legal advisory professions (lawyers or notaries) as well as
- Whether a position is "suitable" within the meaning of § 305 para. 1 No. 1 InsO, is governed in Lower Saxony by the Lower Saxony Implementation Act on the Insolvency Code (Nds. AGInsO). In Lower Saxony, the Lower Saxony State Office for Social Affairs, Youth and Family, Team 3SL1, Domhof 1, 31134 Hildesheim, was designated as the competent authority for the implementation of the Nds. AGInsO – in particular recognition of suitable bodies and settlement of remuneration with them.

Make sure at an early stage (preferably before you

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carry out an out-of-court debt settlement procedure) whether the organisation you have contacted has been recognised accordingly by the Düsseldorf district government. In addition, it makes a lot of sense that before carrying out an out-of-court debt settlement procedure, you read the resolution modalities (Who should send the debt settlement plan? Is the content of the debt settlement plan sufficient?) coordinate with this organisation so that you can obtain the certificate you need following this procedure.

https://www.ms.niedersachsen.de/startseite/soziales_inklusion/soziales/verbraucherinsolvenz_und_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html

https://www.ms.niedersachsen.de/startseite/soziales_inklusion/soziales/verbraucherinsolvenz_und_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html

Erforderliche Unterlagen

- Complete and duly completed and signed official application form for consumer insolvency proceedings, including the annexes provided (including list of assets, balance sheet, list of creditors and claims),
- certificate from an authorised body stating the failure of the out-of-court settlement attempt,
- if applicable, application for the implementation of the residual debt discharge procedure including the necessary declaration of assignment,
- if applicable, application for deferral of procedural costs.

Voraussetzungen

- You are a consumer, i.e. either You do not currently carry out any self-employed economic activity or have not exercised one in the past, or Although you have carried out a self-employed economic activity in the past, your financial circumstances are manageable and there are no claims from employment relationships against you,
- Reason for opening Insolvency (§ 17 InsO) imminent insolvency (§ 18 InsO),
- Certificate from an authorised body stating the failure of the out-of-court settlement attempt.

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Kosten

A 0.5 fee pursuant to No. 2310 KV GKG is payable for the proceedings on the debtor's application for the opening of insolvency proceedings. The value of the insolvency estate at the time of the closure of the insolvency proceedings is decisive for the calculation of the specific amount incurred.

Verfahrensablauf

- Download and print out the application forms in the Lower Saxony State Justice Portal.
- If necessary, fill in the forms together with a suitable person (e.g. lawyer) or a suitable body (debt counselling) and attach the necessary supporting documents.
- Submit the application together with the other documents to the insolvency court.

Consumer judicial insolvency proceedings usually go through the following stages one after the other:

- First, the insolvency court examines your submitted documents. The insolvency court will inform you in writing of any complaints. You must then resolve the complaint(s) within one month. If you do not do so in due time (the decisive factor is receipt by the insolvency court), your application will be deemed withdrawn.
- If the examination of the insolvency court has shown that your application is in order, it will decide in the specific individual case, taking into account all the circumstances, whether it makes sense to carry out a judicial debt settlement procedure.
- If the judicial debt settlement proceedings have also failed or if the insolvency court decides against conducting such proceedings, the insolvency court will open insolvency proceedings against your assets, provided that financing of the proceedings is likely to be covered by the future insolvency estate or secured on the basis of a deferral of procedural costs. In addition, the insolvency court appoints an insolvency administrator.
- The insolvency administrator has the task of realising your (seizure-free) assets. If the assets have been realised, the insolvency proceedings are terminated.
- If you have filed an application for discharge of residual debt: Following the cancellation of the

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	<p>insolvency proceedings, the good conduct period begins. In principle, this ends at the end of the 3-year (or in a new procedure 5-year) assignment period.</p> <ul style="list-style-type: none"> • The court appoints a trustee for the duration of the good conduct period. During the good conduct period, you must fulfil certain obligations, e.g. engage in appropriate gainful employment.
Bearbeitungsdauer	<p>First, the insolvency court examines your submitted documents. The insolvency court will inform you in writing of any complaints. You must then resolve the complaint(s) within one month. If you do not do this on time (the decisive factor is the receipt by the insolvency court), your application will be deemed withdrawn.</p>
Frist	<p>The insolvency application must be received by the insolvency court no later than six months after the (certified) failure of the out-of-court debt settlement procedure.</p>
weiterführende Informationen	
Hinweise	
Rechtsbehelf	<p>If the opening of insolvency proceedings is refused, the applicant and, if the application is rejected pursuant to § 26 InsO, the debtor are entitled to an immediate appeal pursuant to § 34(1) InsO. If insolvency proceedings are opened, the debtor is entitled to an immediate appeal pursuant to Section 34(2) InsO. The court request to supplement the application documents to be submitted by the debtor in consumer insolvency (Section 305(3) InsO) is final.</p>
Kurztext	<ul style="list-style-type: none"> • Conducting consumer insolvency proceedings • Consumer, i.e. either You do not currently carry out any self-employed economic activity or have not exercised one in the past, or Although you have carried out a self-employed economic activity in the past, your financial circumstances are manageable and there are no claims from employment relationships against you, • Reason for opening Insolvency (§ 17 InsO) imminent insolvency (§ 18 InsO),

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	Certificate from an authorised body stating the failure of the out-of-court settlement attempt
Ansprechpunkt	<p>The locally competent insolvency court.</p> <p>The insolvency court in whose district the debtor has his general place of jurisdiction has exclusive territorial jurisdiction.</p> <p>If the centre of an independent economic activity of the debtor is located elsewhere, the insolvency court in whose district that place is situated shall have exclusive jurisdiction.</p> <p>The competent court can be found here.</p>
Zuständige Stelle	
Formulare	
Ursprungsportal	Durchführung eines Verbraucherinsolvenzverfahrens, Conducting consumer insolvency proceedings