

99066002187000, 99066002187000

# Decision to open insolvency proceedings

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/438764108/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99066002187000, 99066002187000
Leistungsbezeichnung I	Decision to open 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	Eröffnung (187)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher	

Modul	Sachverhalt
Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021
Fachlich freigegeben durch	Lower Saxony Ministry of Justice
Handlungsgrundlage	<a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000</a> <a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG035800000</a>
Teaser	The opening of insolvency proceedings is effected by a court order if an admissible and reasoned application for the opening of insolvency proceedings has been filed.
Volltext	<p>Insolvency proceedings shall be opened only upon written application. The creditors (so-called third-party application) and the debtor (so-called own application) are entitled to apply.</p> <p>This request must be admissible and substantiated.</p> <p>As part of the admissibility of an insolvency application, the insolvency court examines in particular whether the person or persons who signed the application were entitled to do so.</p> <ul style="list-style-type: none"> <li>• In the case of legal entities (e.g. corporations or registered associations), any legal representative (managing director, board member),</li> <li>• in the case of a legal person, in the event of lack of leadership, each partner shall:</li> <li>• in the case of a stock corporation or a cooperative, each member of the supervisory board also applies to the application,</li> <li>• in the case of companies without legal personality (e.g. OHG or KG), each personally liable partner individually entitles,</li> </ul> <p>to submit the own application on behalf of the legal entity, even if it is otherwise only authorised to represent it jointly with other persons. In addition, when an application is submitted by shareholders of a legal entity or member of the Supervisory Board, the</p>

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lack of leadership must also be credibly demonstrated. In the case of a self-application due to imminent insolvency, special features apply.

The essential aspect for the merits of the insolvency application is the question of whether there is a reason for opening the proceedings. The reasons for opening both the own and the third-party application are

- insolvency (§ 17 InsO) and
- (only for legal entities) Over-indebtedness (§ 18 InsO)

to be considered.

In the case of a self-application, the reason for opening the

- imminent insolvency (§ 19 InsO)

to be considered.

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

If a natural person files a personal application and there are insufficient assets to finance the insolvency proceedings, it may be possible to file an application for deferral of the costs of the proceedings (see "Deferral of procedural costs in insolvency proceedings").

If the insolvency court has completed its examinations and determines that an admissible and reasoned application has been made, and if the financing of the insolvency proceedings by the insolvency estate is probable or secured by a deferral of procedural costs, the opening of insolvency proceedings shall be effected by order.

## Erforderliche Unterlagen

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

## Voraussetzungen

- Application for the opening of insolvency proceedings

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

The following may be considered as reasons for  
 opening:

- Insolvency Over-indebtedness, if applicable possibly  
 imminent insolvency
- Future insolvency estate is expected to be able to  
 finance costs of the insolvency proceedings (or deferral  
 of the costs of the proceedings will be granted upon  
 application)

## Kosten

## Verfahrensablauf

If an insolvency application is received by an insolvency  
 court, the insolvency court examines in a so-called  
 insolvency opening procedure whether this application  
 is admissible and justified. Furthermore, it is examined  
 whether the future insolvency estate is likely to be able  
 to finance the costs of the insolvency proceedings.

If the insolvency court has completed its examinations  
 and determines that an admissible and reasoned  
 application has been made, and if the financing of the  
 insolvency proceedings by the insolvency estate is  
 probable or secured by a deferral of procedural costs,  
 the opening of insolvency proceedings shall be  
 effected by order.

## Bearbeitungsdauer

## Frist

Depending on the type of insolvency proceedings,  
 different deadlines apply • Consumer insolvency  
 proceedings • Business insolvency proceedings •  
 Succession insolvency proceedings

## weiterführende Informationen

## Hinweise

[https://justizportal.niedersachsen.de/startseite/gericht\\_e\\_und\\_staatsanwaltschaften/zivilgerichtsbarkeit/insolvenzgerichte/insolvenzverfahren-eroffnung-des-insolvenzverfahrens-182420.html](https://justizportal.niedersachsen.de/startseite/gericht_e_und_staatsanwaltschaften/zivilgerichtsbarkeit/insolvenzgerichte/insolvenzverfahren-eroffnung-des-insolvenzverfahrens-182420.html)  
<https://justizportal.niedersachsen.de/startseite/gericht>

Modul	Sachverhalt
	e_und_staatsanwaltschaften/zivilgerichtsbarkeit/insolvenzgerichte/insolvenzverfahren-eroffnung-des-insolvenzverfahrens-182420.html
Rechtsbehelf	<p>The decisions of the insolvency court are subject to appeal only in cases where the Insolvency Code provides for an immediate appeal.</p> <p><a href="https://www.gesetze-im-internet.de/inso/BJNR28660094.html#BJNR286600994BJNG035800000">https://www.gesetze-im-internet.de/inso/BJNR28660094.html#BJNR286600994BJNG035800000</a></p> <p><a href="https://www.gesetze-im-internet.de/inso/BJNR28660094.html#BJNR286600994BJNG035800000">https://www.gesetze-im-internet.de/inso/BJNR28660094.html#BJNR286600994BJNG035800000</a></p>
Kurztext	<p>Insolvency proceedings are opened by court order.</p> <p>The prerequisite is an admissible and reasoned request.</p>
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	<p>Forms/online services available: Yes</p> <p>Written form required: Yes</p> <p>Informal application possible: No</p> <p>Personal appearance required: No</p> <p>No formal form requirement due to § 13 sec. 4 sentence 1 InsO for standard insolvency proceedings. Lower Saxony provides its own forms for voluntary use.</p> <p>For consumer insolvency proceedings, on the other</p>

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	<p>hand, form is compulsory, § 305 para. 1 sentence 1 InsO in conjunction with the Ordinance on the Introduction of Forms for Consumer Insolvency Proceedings and the Residual Debt Discharge Procedure (Consumer Insolvency Form Ordinance – VbrInsFV).</p> <p><a href="https://justizportal.niedersachsen.de/startseite/buerger-service/amtliche_formulare_ausfullhilfen_und_hinweisblatter/amtliche-vordrucke-insolvenzrecht-126262.html">https://justizportal.niedersachsen.de/startseite/buerger-service/amtliche_formulare_ausfullhilfen_und_hinweisblatter/amtliche-vordrucke-insolvenzrecht-126262.html</a></p> <p><a href="https://justizportal.niedersachsen.de/startseite/buerger-service/amtliche_formulare_ausfullhilfen_und_hinweisblatter/amtliche-vordrucke-insolvenzrecht-126262.html">https://justizportal.niedersachsen.de/startseite/buerger-service/amtliche_formulare_ausfullhilfen_und_hinweisblatter/amtliche-vordrucke-insolvenzrecht-126262.html</a></p>
Ursprungsportal	Decision to open insolvency proceedings, Eröffnungsbeschluss Insolvenzverfahren