

99066002058003

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/3844/L100042>

Modul	Sachverhalt
Leistungsschlüssel	99066002058003
Leistungsbezeichnung I	
Leistungsbezeichnung II	Consumer insolvency and residual debt discharge; application
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	

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Fachlich freigegeben am	05.03.2025
Fachlich freigegeben durch	Bayerisches Staatsministerium der Justiz (Bavarian State Ministry of Justice)
Handlungsgrundlage	<a href="http://bundesrecht.juris.de/inso/BJNR286600994.html#BJNR286600994BJNG032000000">http://bundesrecht.juris.de/inso/BJNR286600994.html#BJNR286600994BJNG032000000</a> <a href="http://bundesrecht.juris.de/inso/BJNR286600994.html#BJNR286600994BJNG032000000">http://bundesrecht.juris.de/inso/BJNR286600994.html#BJNR286600994BJNG032000000</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayAGSG-G15">https://www.gesetze-bayern.de/Content/Document/BayAGSG-G15</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayAGSG-G15">https://www.gesetze-bayern.de/Content/Document/BayAGSG-G15</a>
Teaser	Insolvency law provides for separate consumer insolvency proceedings for people who are not self-employed, which can lead to a discharge of residual debt after three or five years under certain conditions.
Volltext	<p>Consumer insolvency proceedings are intended to give people in financial difficulties a fresh start by discharging residual debt. It can be initiated in the event of insolvency or imminent insolvency of the debtor and, under certain conditions, leads to a discharge of residual debt. Any natural person has access to the procedure, provided they are not self-employed. If this was the case in the past, consumer insolvency proceedings only apply if the financial circumstances are manageable (fewer than 20 creditors) and there are no claims against the debtor from employment relationships.</p> <p>Consumer insolvency proceedings are divided into several stages: out-of-court debt settlement, court proceedings via the debt settlement plan and consumer insolvency proceedings with discharge of residual debt after a three-year period of good conduct (for applications to open insolvency proceedings filed since October 1, 2020). The latter two stages of the proceedings are only carried out if one of the previous stages has not already been successful.</p> <p>Out-of-court debt settlement Before filing for insolvency, the debtor must attempt an out-of-court</p>

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debt settlement with their creditors. He must draw up a plan in which he sets out his income and financial circumstances and submits a concrete proposal for debt settlement. When drawing up the plan, it makes sense for the debtor to seek the help of a person or body suitable for debt advice. Suitable persons are, in particular, lawyers, notaries and tax consultants. In Bavaria, suitable agencies are debt counselling agencies that have been recognized as such by the government. Information can be obtained from the governments and the insolvency courts (local courts). Court proceedings concerning the debt settlement plan If the out-of-court debt settlement proceedings do not lead to an agreement, the debtor can apply to the court to open insolvency proceedings. Further documents and declarations, in particular a debt settlement plan, must be submitted to the court with the application. It contains the debtor's proposal for the implementation of the judicial debt settlement. If no creditor raises objections to the debt settlement plan, it is deemed to have been accepted. It then has the effect of a court settlement, i.e. the debtor no longer has to meet the creditors' original claims, but only the liabilities listed in the debt settlement plan. The court can replace the consent of individual creditors who have expressly not agreed to the plan under certain conditions at the request of a creditor or the debtor.

Consumer insolvency proceedings with discharge of residual debt after a three-year period of good conduct

If the court attempt to reach an agreement also fails, the court decides on the application to open insolvency proceedings. If the necessary requirements are met, the court will open the proceedings. The court appoints an insolvency administrator who liquidates the insolvency estate, i.e. the debtor's attachable assets. When insolvency proceedings are opened, the insolvency court also makes a decision on the admissibility of the debtor's application for discharge of residual debt. The application for residual debt discharge may be inadmissible if, among other things, the debtor has already been granted residual debt discharge in the last eleven years or has been refused

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in the last five years due to an insolvency offense or the debtor has violated obligations to provide information or cooperate before or after the application for the opening of insolvency proceedings. Discharge of residual debt was previously granted by the court after a good conduct period of six years. Due to the new legal situation applicable from October 1, 2020, the residual debt discharge procedure now has a standard term of three years. Thus, in all insolvency proceedings applied for from October 1, 2020, residual debt discharge will be granted after three years from the opening of the insolvency proceedings if there are no grounds for refusal. For insolvency applications filed between December 17, 2019 and October 1, 2020, the previous regular duration of six years will be gradually shortened. During the period of good conduct, the debtor must transfer the attachable part of their earned income or a substitute benefit granted for this (e.g. unemployment benefit) to a trustee appointed by the court. Among other things, the debtor is obliged to pursue appropriate gainful employment or to make efforts to do so. The debtor's obligation to pursue gainful employment even begins as soon as the proceedings are opened. Discharge of residual debt is to be denied if this has been applied for by an insolvency creditor who has filed a claim and the debtor has intentionally or negligently breached their earning obligation or other obligations by the end of the good conduct period, thereby impairing the satisfaction of the insolvency creditors. With the discharge of residual debt, the debtor is discharged from all debts existing at the time the insolvency proceedings were opened. However, liabilities arising from an intentionally committed tort, from fines, penalties, coercive fines and administrative fines, from statutory maintenance in arrears which the debtor has intentionally failed to pay in breach of duty, from a tax debt if the debtor has been convicted of a tax offense in connection with this and from interest-free loans granted to the debtor to settle the costs of the insolvency proceedings are excluded from the discharge of residual debt. The three-year residual debt discharge procedure can only be applied once for each debtor. If a debtor has to file for insolvency again after being granted residual debt discharge in the

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	three-year procedure, they can only obtain residual debt discharge in the second procedure after five years. A second insolvency application is also only possible after eleven years.
Erforderliche Unterlagen	
Voraussetzungen	
Kosten	Naturally, there are no court fees for out-of-court debt settlement. The debt advice centers of the independent welfare services, local authorities and districts generally offer their assistance free of charge. Fees are incurred if a member of the legal advisory professions is called upon. Under certain circumstances, these fees can be covered by the counseling assistance under the Counseling Assistance Act, which the local courts are responsible for granting.
Verfahrensablauf	
Bearbeitungsdauer	
Frist	
weiterführende Informationen	<a href="https://www.bestellen.bayern.de/shoplink/04000507.htm">https://www.bestellen.bayern.de/shoplink/04000507.htm</a> <a href="https://www.bestellen.bayern.de/shoplink/04000507.htm">https://www.bestellen.bayern.de/shoplink/04000507.htm</a>
Hinweise	
Rechtsbehelf	
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	BayernPortal, BayernPortal