APPENDIX IV: REGULATIONS

LAW ON BUSINESS BANKRUPTCY

IX LEGISLATURE, SESSION 4 (FROM 6 DECEMBER TO 30 DECEMBER 1993)

ln order to protect the legal rights and interests of creditors, business debtors and related persons, to determine the responsibilities of business debtors in business bankruptcy, to encourage businesses to be more effective in their operations, and to ensure social order and discipline;

Pursuant to article 84 of the 1992 Constitution of the Socialist Republic of Vietnam;

This Law makes provisions on business bankruptcy.

Chapter I
General provisions

Article 1

This Law shall apply to all forms of business ownership which are established and operated under the laws of the Socialist Republic of Vietnam at the time of bankruptcy.

The Government shall make detailed provisions on the implementation of this Law in respect of businesses which directly provide national defence and security, and important public services.

Article 2

A bankrupt business means a business which still faces financial difficulties or still suffers losses in its operation after it has applied all necessary financial measures and, as a result, loses its ability to repay debts when they fall due.

Article 3

In this Law, the following terms shall have the meanings ascribed to them hereunder:

1. Secured creditor means a creditor holding a security over the property of the debtor for a debt due to him from the debtor;
2. Partly secured creditor means a creditor holding a security over the property of the debtor and the value of the property is less than that of the debt

due;
3. Unsecured creditor means a creditor who is not holding a security over the property of the debtor fur a debt due to him from the debtor;
4. Legal representative of a business means a person who is vested with the authority by the owner of the business to represent the business before the law.

Article 4

1. The people's courts of provinces and cities under central authority (hereinafter referred to as the court) and the People's Supreme Court shall be the bodies vested with the jurisdiction to hear and declare business bankruptcy;
2. The judgment enforcement office of the department of justice and the general department of civil judgment enforcement and management of the Ministry of Justice shall be the bodies vested with the power to enforce the court sequestration orders or business declaration judgments.

Article 5

The public prosecutions omce shall inspect compliance with the law during a business bankruptcy proceeding in accordance with the provisions of the law.

Article 6

Any voluntary conciliation between creditors and business debtors, or any guarantee or re-purchase of debts of the bankrupt business shall be given priority for resolution prior to the court issuing a decision to proceed with a bankruptcy petition.

Chapter II
Application for and Court Filing of Bankruptcy Petition

Article 7

1. If after thirty (30) days from the date of serving an invoice, a debtor has not settled a debt, an unsecured or partly secured creditor shall have the right to file a petition at the court where the debtors head office is located asking the court to make a sequestration order in respect of the assets of the debtor;

2. A petition for a sequestration order must state clearly the following:
   a. the full name and address of the petitioner;
   b. the name of the business in respect of which the sequestration order is sought, and the address of its head office.
3. The petition must be accompanied by a copy of the invoice and documentary evidence which shows that the business is unable to pay the debt due;
4. The petitioner must pay a deposit for costs in accordance with the provisions of the law.

Article 8

In cases where a business is unable to pay the wages of its employees for three consecutive months, the union representative or a representative of the employees (in cases where there is no union) shall have the right to file a petition at the court where the head office of the business is located asking the court to make a sequestration order in respect of the assets of the business. Having filed the petition, the abovementioned representative shall be deemed to be the creditor in the proceeding and shall be exempted from payment of the deposit.

Article 9

1. In cases where a business is unable to pay its due debts after applying all appropriate measures to overcome financial difficulties and pay such debts, including delaying the payments, the owner or legal representative of the business must file a petition at the court where its head office is located asking the court for a declaration of bankruptcy;
2. The petition must state clearly:
   a. the name of the business and the address of its head office; the full name of the owner or the legal representative of the business;
   b. the unsuccessful measures taken by the business to correct its inability to pay the debts due;
   c. the petition must be accompanied by a statement of affairs containing a list of the creditors and the corresponding amount owed, and the addresses of the creditors; a report on the responsibilities of the directors and the members of the board of management in respect of the business becoming unable to pay its debts; a report on the financial situation of the business for the six months prior to it becoming unable to pay its debts; the annual reports for the two previous financial years, or for the

whole duration of the business if the business has been in operation for less than two years; all related accounting files.

3. The petitioner must pay a deposit for costs in accordance with the law.

Article 10

During the hearing of a related proceeding, if the court discovers that a business is in a position of bankruptcy, it shall notify the creditors and the business of the situation so that a petition can be filed with the court for declaration of bankruptcy.

Article 11

The petitioner of a bankruptcy petition to the court must be responsible for the contents of the petition and attached documents and information.

The owner or legal representative of the business and the petitioner have the obligation to provide all necessary evidence and documents as requested by the court during the process of a bankruptcy proceeding and must be responsible for the accutacy of such evidence and documents.

Article 12

The court where the bankruptcy petition is filed must enter each petition in its records and issue the petitioner with a wriuen confirmation of receipt of the petition and attached documents.

Within seven days from the date on which the bankruptcy petition is filed, the court shall, by way of written documents, serve the debtor with a copy of the petition and the related attached documents.

Within ten (10) days from the date of service, the business which is being petitioned against must send to the court a report on its ability to pay the debts outstanding. In cases where the business is unable to pay the debts outstanding, it must send to the court the reports and documents stipulated in points (b) and (c) of clause 2 of article 9 of this Law.

Article 13

Within thirty (30) days from the date on which the bankruptcy petition is filed, the chief justices of the economic courts of the people I s courts of provinces and cities under cental authority (hereinafter referred to as the provincial economic court) must consider the petition and the related documents, and where it is considered that there is insufficient evidence to proceed with

a hearing for the bankruptcy proceeding, the chief justice will dismiss the petition. The reasons for the decision must be stated clearly and forwarded to the petitioner and debtor. Within a period of fifteen (15) days from the date of receipt of the decision of the chief justice of the provincial economic court, the parties may make an appeal against the decision to the chief justice of the provincial people's court. Within seven days from the date of receipt of the appeal application, the chief justice of the provincial people's court must make one of the following decisions:

1. To affirm the decision of the chief justice of the provincial economic court;
2. To set aside the decision of the chief justice of the provincial economic court and request that the decision be reconsidered.

Within seven days from the date the decision of the chief justice of the provincial people's court is made, the chief justice of the provincial economic court must issue a new decision. This decision must be sent to the chief justice of the provincial people's court and the parties involved. If within fifteen (15) days from receiving the new decision of the chief justice of the economic court the parties involved still wish to lodge further complaints, the chief justice of the provincial people's court must consider the matter and make a decision within seven days. The decision of the chief justice of the provincial people's court shall be final and binding.

Article 14

The costs of a business bankruptcy proceeding shall be determined by the court in accordance with the laws regulating costs of legal proceedings.

Chapter III
Resolution Procedures for a Business Bankruptcy Proceeding

I. Decision to Conduct a Hearing of a Bankruptcy Proceeding

Article 15

If within thirty (30) days from the date of filing of a bankruptcy petition, or within seven days from the pronouncement of the chief justice's decision as stipulated in clause 2 of article 13 of this Law it is considered that there is

sufficient evidence, the chief justice of the provincial economic court shall issue a decision to conduct a hearing of the bankruptcy proceeding. The reasons for proceeding with the bankruptcy petition must be stated clearly and the date on which all payments of the business cease to be valid must be fixed. The full name of the judge presiding over the bankruptcy proceeding and the full names of the members of the appointed trustee committee must be stated.

Depending on the nature of each matter, the chief justice of the provincial economic court shall appoint a single judge or a committee of three judges (hereinafter referred to as the judge) and a trustee committee to resolve the bankruptcy proceeding. In cases where there are three judges appointed, one judge shall be appointed as the presiding judge.

The trustee committee shall consist of:

- officers of the provincial economic court;
- enforcement officers of the judgment enforcement office of the Department of Justice;
- a representative of the creditors;
- a representative of the debtor;
- a union representative, or a representative of the workers where there is no union; and
- experts from financial institutions, provincial banks and other specialist branches.

The chairman of the trustee committee shall be an officer of the provincial economic court.

The chief justice of the People's Supreme Court shall stipulate regulations on the activities of the committee of judges; and the Government shall, after reaching an agreement with the People's Supreme Court, make provisions on the organization and operation of the trustee committee.

The decision to proceed with a bankruptcy petition must be published in local newspapers where the head office of the business is located and in daily central newspapers for three consecutive issues.

Article 16

1. The judge shall have the following duties and powers:
   a. to collect all documents and evidence for inclusion in the file of the bankruptcy proceeding;
   b. to supervise and inspect the activities of the members of the trustee

committee;

c. to issue orders for application of temporary emergency measures to protect the debtor's assets for the benefit of the creditors in accordance with the law, where required;
d. to organize and preside over the meeting of creditors;
e. to determine the temporary suspension, or suspension of a bankruptcy proceeding;
f. to declare business bankruptcy.

2. Where breaches of the law are identified during the process of a bankruptcy proceeding, the judge shall forward to the public prosecutions office of the same jurisdiction documents relating to the matter for consideration as to whether a criminal proceeding should be initiated;
3. The judge shall be responsible to the chief justice of the provincial people's court for his action in respect of his duties and power.

Article 17

The trustee committee shall have the following duties and powers:

1. to prepare a list of all assets of the business;
2. to supervise and inspect the management of the assets of the business. Where necessary, the trustee committee has the power to request the judge for application of emergency measures in order to protect the remaining assets of the business;
3. to prepare a list of creditors and the debt amount of each creditor.

The trustee committee shall be responsible to the judge for its implementation of its duties and powers.

Article 18

1. During the resolution process of a bankruptcy proceeding, the directors and the members of the board of management of the business must still be responsible for the trading results of the business. Every business activity of the business shall continue as usual but shall be subject to the supervision and inspection of the judge and the trustee committee;
2. Upon receipt of the court's decision to proceed with a bankruptcy petition, the business against which the petition is lodged shall be prohibited from carrying out the following activities:
   a. to conceal, or dispose of any asset of the business;

b. to pledge, mortgage, assign, or sell any asset of the business; or
c. to pay any unsecured debt of the business to any creditor. Any debt which has resulted from the operation of the business after the court's decision to proceed with a bankruptcy proceeding against the business shall be settled in accordance with the provisions of article 23 of this Law;
d. to discharge debts, or reduce the liabilities of debtors of the business;
e. to create security over debts which were previously unsecured;
f. to sell or convert shares, or assign ownership rights of any assets of the business.

Article 19

The assets of a business shall consist of all assets which are owned or managed by the business (in the case of State owned businesses) including:

1. Fixed assets and current assets of the business;
2. Money or assets contributed to the capital of the business, joint venture, or business association with other individuals, businesses or organizations;
3. Money or assets of the business which are currently owed to the business by, or are in the possession of, other individuals, businesses, or organizations;
4. Assets which are currently leased out or lent;
5 . All rights to the assets.

The assets of a private business include all assets which belong to the owner of the business and which are not directly used in the operation of the business.

Article 20

Immediately after pronoucing the decision to proceed with the bankruptcy petition, the judge must request the owner or legal representative of the business to prepare resolution proposals and solutions for the restructuring of the business. The time limit for the business to restructure its operation shall be determined at the meeting of creditors but shall not exceed two years from the date on which the creditors agree on a resolution proposal at the meeting of creditors.

The resolution proposal and solutions for the restructuring of the business operation must consist of detailed methods and plans, and a schedule for pay-

ment of debts to creditors and salaries to workers.

The resolution proposal and solutions for the restructuring of the business operation must be forwarded to the judge within sixty (60) days from the date on which the judge issues such request. Where there is no resolution proposal at the end of this period, the judge shall make a sequestration order and organize a meeting of creditors to discuss methods of distributing the value of the remaining assets of the business.

Article 21

Within sixty (60) days from the first date of the publication in local and central daily newspapers of the court's decision to proceed with a bankruptcy petition, all creditors must submit to the court notices requesting payment of debts.

Such notices must specify clearly the amount of the debt which is payable by the debtor categorized into due and undue debts, and secured and unsecured debts with attached documents and evidence proving the amount of debt owed.

Article 22

Within fifteen (15) days from the date of expiry for submission of notices and proof of debt, the trustee committee shall prepare a list of creditors and the amount of debt owed to each one (hereinafter referred to as list of creditors) . This list must specify clearly the amount of money owed to each creditor categorized into secured and unsecured debts, and due and undue debts, and must be publicly posted at the provincial court, and the head office and the branches of the business within ten (10) days. Within this period, creditors and the business which is in debt shall have the right to lodge a complaint in respect of the list of creditors with the judge. The judge shall consider the complaint and, where appropriate, amendments or additions shall be made to the list of creditors. Upon the expiry of this period, the trustee committee shall finalize the list of creditors, and creditors who fail to send notices and proof of debt shall forfeit their rights to participate in the meeting of creditors.

Article 23

The business with debts outstanding shall not be required to pay interest on the debts as from the date on which the court issues an order to stop all payments; all undue debts shall be deemed to be due but the interest calcu-

lated up until the actual due date shall not be taken into account

During a bankruptcy proceeding, new debts which result from the operation of the business and the salaries of workers shall be settled under the supervision of the judge.

II. The Meeting of Creditors

Article 24

The meeting of creditors shall have the following duties and powers:

1. To consider and pass resolution proposals or solutions for the restructuring of the operation of the business;
2. To discuss and propose motions to the judge on the distribution of the remaining assets of the business where there is no resolution proposal, or where a resolution proposal is not passed at the meeting of creditors.

Article 25

The individuals who, or businesses and organizations which, are specified in the list of creditors shall be the members of the meeting of creditors.

A creditor may appoint in writing a proxy to attend the meeting on its behalf. The duly appointed proxy shall have the same rights and obligations as the creditor.

Only unsecured and partly secured creditors have the right to vote at the meeting of creditors.

Union representatives, or representatives of workers in businesses which have no unions shall have the right to attend the meeting of creditors but shall have no rights to vote except in the cases stipulated in article 8 of this Law.

Article 26

Having paid a debt on behalf of the business, the guarantor of the debt shall become an unsecured creditor with the same rights and obligations as other unsecured creditors. The guarantor shall be allowed to participate in the meetings of creditors and shall be entiled to a portion of the value of the remaining assets of the bankrupt business in accordance with the a rate equivalent to the amount of debt paid on behalf of the business.

A creditor whose debt has been partly settled by the guarantor of the debt shall have the right to participate in the distribution of the value of the remaining assets of the business in accordance with a rate equivalant to the

amount of debt still outstanding.

Article 27

Within thirty days from the date on which the list of creditors is finalised, the judge shall convene and preside the meeting of creditors. Notice of the meeting must be sent to members and participants of the meeting no later than 15 days prior to the commencement of the meeting; and attach to such notice shall be copies of the resolution proposals and solution for the restructring of the operation of the business

Article 28

The owner, or the legal representative of the business must be present at the meeting of creditors in order to present to the participants the resolution proposals and the solutions for the restructuring of the business operation, and to answer any questions raised during the meeting. In cases where the owner, or the legal representative of the business is unable to attend the meeting of creditors for legitimate reasons, a proxy must be appointed in writing. The proxy shall have the same rights and obligations as the owner, or the legal representative of the business. In cases where the owner of a private business dies, his legal successor shall attend the meeting of creditors on his behalf.

Article 29

A meeting of creditors shall only be valid if more than half of the number of creditors representing at least two thirds in value of the unsecured debts are present at the meeting.

Minutes in respect of the accepted resolution proposal and restructuring solution shall only be valid if they are duly passed by more than half of the number of creditors representing at least two thirds in value of the unsecured debts. The minutes must record clearly the matters which have been discussed and must be signed by the judge and the creditors who attended the meeting. On the basis of the minutes of conciliation, the judge shall issue a decision to suspend temporarily the bankruptcy proceeding. All agreements which are recorded in the minutes of conciliation shall be binding on all creditors and the debtor.

Article 30

A meeting of creditors may be adjourned once if:

1. There is less than half of the number of creditors representing at least two thirds in value of unsecured debts present at the meeting;
2. A majority of the creditors present at the meeting vote in favour of the adjournment.

Article 31

1. Within thirty (30) days from the date on which the meeting of creditors is adjourned, the judge must reconvene and preside over the meeting of creditors. Notice of the meeting must be published once in the local newspaper and the daily central newspaper, and must be sent to the members and the participants of the meeting no later than fifteen (15) days prior to the commencement of the meeting. This meeting shall only be valid if more than one half of the number of creditors representing at least two thirds in value of the unsecured debts are present.

   The decision to adopt a resolution proposal and the solutions for the restructuring of the operation of the business at this meeting shall only be legally valid if it is duly passed by creditors representing at least two thirds in value of the unsecured debts who are present at the meeting.

   All agreements which are recorded in the minutes of conciliation of the meeting shall be binding on all creditors and the business debtor;
2. Where a meeting of creditors is not valid due to the attendance of fewer than the number of creditors as required by clause 1 of this article, the judge shall issue a decision to suspend the bankruptcy proceeding and such decision shall be published in the local newspaper and the daily central newspaper for three consecutive issues.

Article 32

The agenda of the meeting of creditors must be fully recorded in the minutes of the meeting. The minutes of the meeting must be signed by the judge, the court clerk, the owner, or the legal representative of the business, and the creditors present at the meeting.

Article 33

The judge shall pronounce a decision acknowledging the resolution proposal and the solutions for the restructuring of the operation of the business which were passed at the meeting of creditors, and shall suspend temporarily

the bankruptcy proceeding. The judge must cause such decision to be published in the local newspaper and the daily central newspaper for three consecutive issues.

Article 34

The owner, or the legal representative of the business must be responsible for the implementation of the proposed methods for restructuring the operation of the business in accordance with the plan and schedule passed at the meeting of creditors.

Creditors shall have the obligation to perform the agreements reached at the meeting of creditors and to supervise the performance of the debtor in respect of such agreements.

Article 35

If during the restructuring period of the business, good trading results are achieved and the business is able to perform all of its obligations in accordance with the plan adopted at the meeting of creditors, the owner of the business shall have the right to request the judge to suspend the bankruptcy proceeding provided that no creditor has lodged a complaint to the court. The judge shall pronounce a decision to suspend the bankruptcy proceeding and must cause such decision to be published in the local newspaper and the daily central newspaper for three consecutive issues.

III. Declaration of Business Bankruptcy

Article 36

The judge shall make a sequestration order or a declaration of bankruptcy in the following cases:

1. The owner, or the legal representative of the business does not present the court with a resolution proposal and solutions for the restructuring of the operation of the business in accordance with the provisions of article 20 of this Law;
2. The owner, or the legal representative of the business is unable to implement the provisions of article 28 of this Law;
3. The resolution proposal and the solutions for the restructuring of the operation of the business are not passed at the meeting of creditors;

4. Upon expiry of the restructuring period, the business is still trading poorly and the creditors file a petition with the court for a sequestration order against the business;
5. During the restructuring period, the business commits serious breaches of the agreement reached at the meeting of creditors and the creditors file a petition with the court for a sequestration order;
6. During the process of a bankruptcy proceeding, the owner of a private business goes into hiding, dies and his legal successor refuses the inheritance, or dies and there is no legal successor.

Article 37

The sequestration order or the declaration of bankruptcy must contain the following:

1. The name of the court and the full name of the judge presiding over the bankruptcy proceeding;
2. The date and the court filing number of the petition for bankruptcy proceeding;
3. The name and address of the business in respect of which the petition is lodged;
4. The date of pronouncement of the sequestration order or the declaration of bankruptcy;
5. Reasons for the order or the declaration;
6. Proposal for the distribution of the assets of the bankrupt business.

The decision to declare business bankruptcy shall be sent to creditors, the bankrupt business, and the public prosecutions office of the same jurisdiction.

Article 38

During the process of a bankruptcy proceeding, the judge shall order that the pledged or mortgaged property of the business be protected and shall organize the valuation of such property. Where the value of the pledged or mortgaged property is insufficient to pay the debts of secured creditors, such creditors shall be permiued to participate in the distribution of the remaining assets of the bankrupt business together with other unsecured creditors. Where the value of the pledged or mortgaged property is greater than the amount of debt owed to secured creditors, the difference in value shall be deemed to be part of the remaking assets of the bankrupt business.

Article 39

The distribution of the assets of the bankrupt business amongst the creditors shall be carried out in the following order of priority:

1. Fees and costs of the bankruptcy proceeding as determined by the provisions of the law;
2. Unpaid wages, allowances for termination of employment, and social insurance in accordance with the provisions of the law and other rights pursuant to a signed collective or individual labour agreement;
3. Tax liabilities;
4. Payment of debts owed to the creditors whose names appear on the list of creditors:
   a. if the value of the remaining assets of the bankrupt business is sufficient to cover the debts of all creditors, then each creditor shall be paid in full the amount owed to him or her;
   b. if the value of the remaining assets of the bankrupt business is insufficient to cover the debts of all creditors, then each creditor shall be paid a portion of the amount owed in accordance with an appropriate ratio.

5. If the value of the remaining assets of the bankrupt business exceeds the total amount of debts owed to all creditors, then the difference in value shall belong to:

   a. the owner of the business in the case of private businesses;
   b. the members of the company in the case where the business is a company;
   c. the State treasury in the case of State owned businesses.

Article 40

1. Within thirty (30) days from the date of pronouncement of the judgment or order, both the creditors and the business in debt shall have the right to lodge an appeal against the judgment or order, and the public prosecutions office of the same jurisdiction shall have the right to protest against such judgment or order. If this period expires and no appeal or protest has been lodged, the judgment or order of the court shall be final and enforceable. In cases where there is an appeal from, or protest against the judgment or

order of the bankruptcy court, the judge who is responsible for the judgment or order must, within five days from the date of receipt of the appeal or protest, transfer the file of the bankruptcy proceeding to the people's Supreme Court of Appeal;

2. Within sixty (60) days from the date of receipt of the file of the bankruptcy proceeding, a council consisting of three judges appointed by the chief justice of the People's Supreme Court of Appeal must resolve the appeal or protest. The decision of the People's Supreme Court of Appeal shall be final.

Article 41

No later than ten (10) days after the date on which the sequestration order or bankruptcy judgment becomes enforceable, the judge must publish the judgment or order in the local newspaper and the daily central newspaper for three consecutive issues.

The copy of the judgment or order must be forwarded to:

a. the judgment enforcement office of the Department of Justice;
b. the creditors and the bankrupt business;
c. the public prosecutions office, and the financial and labour institutions of the same jurisdiction;
d. the State body which issued the licence for the establishment of the business.

The copy of the judgment or order sent to the judgment enforcement office must be accompanied by the necessary documents for the execution of such decision.

The judge of the provincial economic court must supervise the transfer of assets and the relevant papers and documents of the business between the trustee committee and the property realization committee.

Article 42

1. The execution of the judgment or order of the court in respect of a declaration of business bankruptcy shall be within the jurisdiction of the judgment enforcement office of the Department of Justice where the head office of the bankrupt business is located;
2. The head of the judgment enforcement office shall appoint an enforcement officer who shall be responsible for the implementation of the judg-

ment or order of the court. The office shall also establish a property realization committee, and inspect and supervise the activities of the committee;

3. The property realization committee shall consist of:
   a. enforcement officers or employees of the judgment enforcement office;
   b. representatives of the financial and banking institutions of the same level;
   c. representatives of the creditors, and the union representative or representative of the workers (where there is no union);
   d. representative of the bankrupt business.

The members of the trustee committee may be appointed as members of the property realization committee. The chairman of the property realization committee shall be the enforcement officer of the judgment enforcement office.

The Government shall provide regulations on the organization and operation of the property realization committee.

Article 43

The enforcement officer responsible for the implementation of the judgment or order of the court shall have the following duties and powers:

1. To make a determination on the recovery and auction of the assets of the bankrupt business;
2. To implement the proposal on the distribution of the assets of the business in accordance with the judgment or order of the judge;
3. To freeze all current bank accounts of the bankrupt business; to open new bank accounts to deposit the money received from the recovery of debts owed to the bankrupt business and from the auction of the assets of the bankrupt business.

The enforcement officer shall be responsible to the head of the judgment enforcement office in carrying out his duties and powers.

Article 44

The property realization committee shall have the following duties and powers:

1. To accept any transfer of assets or related documents from the trustee com-

mittee;
2. To recover and manage all the assets, documents, and accounting records of the bankrupt business;
3. To identify and make requests to the enforcement officer for the recovery of assets, value of assets, or the difference in value of assets of the bankrupt business which were illegally sold or transferred in accordance with article 45 of this Law. The property realization committee shall recover the abovementioned assets, value of assets, or the difference in accordance with the decision of the enforcement officer;
4. Pursuant to the decision of the enforcement officer, the property realization committee shall organize the auction of the assets of the bankrupt business. Any auction of assets of the business must be notarized by a State notary. Where an asset to be auctioned is a complete equipment, it must be sold as a whole except in cases where it cannot be sold as such, in which case it can be sold as separate items. The realization of the assets and the right to use land of the business by way of an auction must be carried out in accordance with the provisions of the law;
5. To deposit all revenue earned by the business in the newly opened bank account;
6. To carry out payment of debts in accordance with the judgment or order of the judge.

Article 45

1. The enforcement officer shall make a recommendation to the court for the recovery of assets, value of assets, or the difference in value of the assets of the business if, within six months prior to the date a bankruptcy petition was lodged against the business, the business committed the following breaches:
   a. any form of disposition of the assets of the business;
   b. payment of debts not yet due;
   c. termination of rights to claim debts owed to the business, or discharge of the debtors, liabilities;
   d. conversion of unsecured debts into secured debts;
   e. sale of assets of the business for less than their actual value.

2. Prior to recovering the assets or the difference in value of the assets of the bankrupt business, the property realization committee shall have the re-

sponsibility of presenting the order of the court to the parties concerned and explaining to them clearly the reasons for the recovery. All disputes relating to the recovery of assets or the difference in value Of assets of the business shall be resolved by the court.

Article 46

Within thirty (30) days from the date on which a business is declared bankrupt, the owner of assets leased and lent to the bankrupt business for use in its operation must present to the enforcement officer evidence of ownership and the lease or loan contract in order to retrieve back his property.

In cases where the bankrupt business has paid rent in advance and the term of the lease has not expired, the owner of the assets shall only be able to retrieve his property after he has refunded to the business the amount of prepaid rent which is not yet earned in order for the property realization committee to include the refund as part of the remaining assets of the business.

Article 47

During the implementation process of the sequestration order or judgment on declaration of bankruptcy of the court, the parties concerned shall have the right to lodge a complaint with the head of the judgment enforcement office of the Department of Justice. Within seven days from the date of receipt of the complaint, the head of the judgment enforcement office shall consider and resolve the matter, and notify the complainant. Where the complainant is not satisfied with the decision of the head of the judgment enforcement office of the Department of Justice, he or she shall have the right to lodge a complaint against such decision to the director of the general department of civil judgment enforcement and management of the Ministry of Justice. Within thirty (30) days from the date of receipt of the complaint, the director of the general department of civil judgment enforcement and management shall issue one of the following decisions:

1. to affirm the decision of the head of the judgment enforcement office of the Department of Justice;
2. to set aside the decision of the head of the judgment enforcement office of the Department of Justice and order a review of the matter.

Article 48

Once the payment process is over, the head of the judgment enforcement

office shall order the termination of all activities relating to the execution of the judgment or order of the court. This decision must be sent to the State body where the bankrupt business is registered in order for the deletion of the business name from the book of registration.

Chapter V

Article 49

1. Any person who commits the following breaches shall, depending on the seriousness of the breach, be punished administratively, liable for payment of compensation, or criminally prosecuted in accordance with the law:
   a. carrying out any of the prohibited activities stipulated in article 18 of this Law, or engaging in other fraudulent conducts during the process of a bankruptcy proceeding;
   b. use of threats or other forms of coercion to force the business debtor to lodge a bankruptcy petition;
   c. intentionally causing damage to, or destroying the property of the business.

2. Judges, members of the trustee committee, enforcement officers, and members of the property realization committee who breach the provisions of this Law and other provisions of the law during the process of a bankruptcy proceeding shall, depending on the seriousness of the breach, be disciplined or criminally prosecuted in accordance with the law.

Article 50

1. The directors, the chairman, and the members of the board of management of a bankrupt business shall be prohibited from holding similar positions in any other business within one to three years from the date on which the business is declared bankrupt;
2. The provisions of clause 1 of this article shall not apply to the directors, the chairman, and the members of the board of management of a bankrupt business in the following circumstances:
   a. the business is bankrupt due to force majeure as determined by the Government;
   b. the directors, the chairman, and the members of the board of management are not directly responsible for the acts of bankruptcy;
   c. the directors or the chairman of the board of management have volun-

tarily lodged a bankruptcy petition against the business in accordance with the law and have fully paid the creditors of the business.

Chapter VI
Implementation Provisions

Article 51

This Law shall businesses which an international be applicable to bankruptcy proceedings in respect of involve foreign individuals and organizations except where treaty of which the Socialist Republic of Vietnam is a signatory otherwise provides.

Article 52

This Law shall be of full force and effect as of 1 July 1994. All previous provisions which are inconsistent with this Law are hereby repealed. The Government, the People's Supreme Court and the public proseuctions office shall make detailed provisions on the implementation of this Law. This Law was passed by Legislature IX of the National Assembly of the Socialist Republic of Vietnam at its 4th Session on 30 December 1993 .

President of the National Assembly
Nong duc Manh

GOVERNMENT REGULATION IN LIEU OF LAW NUMBER I YEAR 1998 CONCERNING THE AMENDMENT OF THE LAW CONCERNING BANKRUPTCY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

a. that the monetary crisis taking place in Indonesia since the middle of 1997 has had a negative impact on the national economy, and has caused great hardship in business circles in the continuation of their business activities, including the fulfillment of obligations to creditors;
b. that in order to afford the opportunity to creditors and companies as debtors to seek a fair settlement, a legal instrument, which can be applied quickly, openly and effectively, is needed;
c. that one of the legal instruments used as a basis for the settlement of debts has been the bankruptcy regulations, including regulations concerning the moratorium on debt repayment;
d. that the prevailing bankruptcy regulations, namely the *Faillissements Verordering* or Bankruptcy Law as set forth in *Staatsblad* Year 1905 Number 217 jo. *Staatsblad* Year 1906 Number 348, needs to be improved and adjusted to the current situation and needs for the aforementioned settlement of debts;
e. that in order to overcome the current economic crisis and grave consequences thereof, one of the pressing issues which needs to be resolved is the settlement of corporate debts, and therefore a regulation on bankruptcy and moratorium on debt repayment which can be applied by debtors and creditors in a fair, quick, open and effective manner is urgently needed;
f. that in addition to fulfilling requirements in respect of

the aforementioned debt settlement, a mechanism for the fair, quick, open and effective settlement of disputes through a special court within the General Judicial system, which is formed and assigned to handle, hear and make decisions concerning certain disputes in the field of commerce including in respect of bankruptcy and the moratorium on debt repayment, is also urgently required in the conduct of business affairs and the economy in general;

g. that in respect of the urgent need for the settlement of the aforementioned issues, it is deemed necessary to improve several provisions of the Bankruptcy Law *(Staatsblad* Year 1905 Number 217 jo *Staatsblad* Year 1906 Number 348) as soon as possible, and to stipulate the same through a Government Regulation In Lieu of Law;

In view of:

1. Article 22 paragraph (1) of the 1945 Constitution;
2. Bankruptcy Law *(Staatsblad* Year 1905 Number 217 jo. *Staatsblad* Year 1906 Number 348);
3. Revised Regulations of Indonesia *(Het Herziene Inlandsch Reglement, Staatsblaad* Year 1941 Number 44);
4. Regulations of Civil Procedure for Regions Outside Java and Madura *(Reglement Buitengewesten, Staatsblad* Year 1927 Number 227);
5. Law Number 14 Year 1970 concerning the Basic Provisions for Judicial Authority (State Gazette Year 1970 Number 74, Supplement to State Gazette Number 295 1);
6. Law Number 14 Year 1985 concerning the Supreme Court (State Gazette Year 1985 Number 73), Supplement to State Gazette Number 3316);
7. Law Number 2 Year 1986 concerning the General Judiciary (State Gazette Year 1986 Number 20, Supplement to State Gazette Number 3327);

HAS DECIDED:

To stipulate: GOVERNMENT REGULATION IN LIEU OF LAW

CONCERNING THE AMENDMENT OF THE BANKRUPTCY LAW.

Article I

Amend several provisions and add new provisions in the Bankruptcy Law as follows:

1. Amend the provisions of Article I to read in its entirety as follows:
   "**Article 1**
   1. A debtor having two or more creditors and failing to pay at least one debt which has matured and became payable, shall be declared bankrupt through a Court decision as intended in Article 2, either at his own petition or at the request of one or more of his creditors;
   2. Petitions intended in paragraph (1) may also be filed by the Attorney General in the interests of the public;
   3. In the event that the debtor is in the form of a bank, the petition for a declaration of bankruptcy may only be filed by Bank Indonesia;
   4. In the event that the debtor is in the form of a securities company, the petition for a declaration of bankruptcy may only be filed by the Capital Market Supervisory Agency."

2. Amend the provisions of Article 2 to read in its entirety as follows:
   "**Article 2**
   1. Decisions regarding petitions for bankruptcy and other related matters as intended in this Law shall be stipulated by the Court the jurisdiction of which covers the debtor's legal domicile;
   2. In the event that the debtor leaves the territory of Indonesia, the Court authorized to make a decision in respect of a petition for the declaration of bankruptcy shall be the Court the jurisdiction of which covers the most recent legal domicile of the debtor;
   3. In the event that the debtor is the shareholder of a firm, the Court the jurisdiction of which covers the legal domicile of the office of such firm shall also be authorized to make a decision;
   4. In the event that the debtor is not domiciled within the territory of the Republic of Indonesia, but practices his profession or conducts his business within the territory of the Republic of Indonesia, the Court entitled to make a decision shall be the Court the jurisdiction of which covers the legal domicile of the office in which the debtor practices his

profession or conducts his business;
5. In the event that the debtor is a legal entity, the legal domicile thereof shall be as set forth in the Articles of Association."

3. Amend the provisions of Article 3 to read in its entirety as follows:
"**Article 3**
1. In the event of a petition for declaration of bankruptcy being filed by a married debtor, such petition may only be filed upon the approval of his/her spouse;
2. The provision set forth in paragraph (1) shall not apply if there is no mingling of property."

4. Amend the provisions of Article 4 to read in its entirety as follows:
"**Article 4**
1. Petitions-for the declaration of bankruptcy shall be filed with the Court through the Clerk of the Court;
2 The Clerk of the Court shall register the petition for declaration of bankruptcy on the date of such petition being filed, and a written receipt signed by the Clerk of the Court bearing the same date as the date of registration shall be provided to the party filing such petition;
3. The Clerk of the Court shall submit the petition for declaration of bankruptcy to the Chairman of the District Court no more than 24 hours from the date of registration of such petition;
4. Within a period of 2x24 hours from the date of registration of the petition for declaration of bankruptcy, the Court shall study such petition and shall determine the day of the session;
5. The session for the hearing in respect of the petition for the declaration of bankruptcy shall be held within 20 (twenty) days from the date of the registration of such petition;
6. At the debtor's request and based on sufficient grounds, the Court may postpone the hearing referred to in paragraph (5) until no later than 25 (twenty-five) days from the date of registration of the petition;
7. The petition for declaration of bankruptcy of a company must include the name and place of residence of each shareholder being jointly and severally liable for the entire debts of the company concerned."

5. Amend the provisions of Article 5 to read in its entirety as follows:
   "**Article 5**
   Petitions as intended in Article 4, Article 7, Article 8, Article 9, Article 11, Article 56A, Article 66, Article 151, Article 161. Article 197 and Article 205 must be filed by an attorney licensed to practice."

6. Amend the provisions of Article 6 to read in its entirety as follows:
   "**Article 6**
   1. The Court:
      a. must summon the debtor, if the petition for declaration of bankruptcy is filed by the creditor or the Attorney General;
      b. may summon the debtor, in the event that the petition for the declaration of bankruptcy is filed by the debtor and there is some doubt that the conditions for being declared bankrupt as intended in Article I paragraph (1) have been met.
   2. The summons as intended in paragraph (1) shall be made by the Clerk of the Court by no later than 7 (seven) days prior to holding the first session for the hearing;
   3. The petition for declaration of bankruptcy must be granted if there are facts or circumstances which prove simply that the conditions for stating bankruptcy as intended in Article I paragraph (1) are fulfilled;
   4. A decision must be made concerning a petition for declaration of bankruptcy within 30 (thirty) days from the date of registration of the petition for declaration of bankruptcy;
   5. The decision concerning the petition for declaration of bankruptcy as intended in paragraph (4) must be pronounced in a public session and may be executed prior to any legal process being filed in respect of such decision;
   6. Within a period of no more than 2x24 hours from the date of determining a decision in respect of the petition for the declaration of bankruptcy, the Court must forward, by official registered letter or by courier, to the debtor, the party filing the petition for the declaration of bankruptcy and the liquidator as well as the Supervising Judge, a copy of the Court's decision setting forth in full the legal considerations underlying such decision."

7. Amend the provisions of Article 7 to read in its entirety as follows:
"**Article 7**
   1. Pending a decision concerning the declaration of bankruptcy, any creditor or the Attorney General may file a petition with the Court to:
      a. place a seizure on a part of or the entire assets of the debtor; or
      b. appoint a provisional liquidator to:
         1. supervise the management of the debtor's affairs; and
         2. supervise payments to creditors, the transfer or utilization of the debtor's assets for which the liquidator's approval is required in respect of the bankruptcy.
   2. A petition as intended in paragraph (1) shall only be granted if based on sufficient and convincing evidence proving that such is needed to protect the creditor's interests.
   3. In the event that the petition as intended in paragraph (1) letter a is granted, the Court may stipulate the requirement for the creditor to provide a security in an amount considered fair by the Court."

8. Amend the provisions of Article 8, Article 9, Article 10 and Article 11 to read in their entirety as follows:
"**Article 8**
   1. The legal action which may be taken in respect of the decision regarding a petition for declaration of bankruptcy shall be an appeal to the Supreme Court;
   2. Petitions for appeal to the Supreme Court as intended in paragraph (1) shall be filed within 8 (eight) days from the date of the decision in respect of which the appeal is filed, by registering the same at the Clerk of the Court which rendered the decision regarding the petition for the declaration of bankruptcy;
   3. The Clerk of the Court shall register the petition for appeal to the Supreme Court on the date on which the petition concerned is filed, and a written receipt signed by the Clerk of the Court bearing the same date as the date of receipt of the registration shall be submitted to the petitioner.

Article 9
   1. The petition for appeal to the Supreme Court must submit to the Clerk of the Court a brief for the appeal and to the other party a copy of the

petition for appeal accompanied by a copy of the brief for the appeal, on the date of registration of the petition for the appeal to the Supreme Court;
2. The Clerk of the Court must send the appeal petition and the brief for the appeal as meant in paragraph (1) to the other party within 24 hours of the registration of the petition for appeal to the Supreme Court;
3. In the event that the other files counter brief for the appeal, the other party must submit such counter brief to the Clerk of the Court and a copy of the counter brief to the petitioner for the appeal, no more than 7 (seven) days from the date that the other party receives the documents as intended in paragraph (2);
4. Within no more than 14 (fourteen) days from the date the petition for appeal to the Supreme Court is registered, the Clerk of the Court must submit the petition for appeal to the Supreme Court, the brief for the appeal and the counter brief for the appeal concerned to the Supreme Court through the Clerk of the Supreme Court.

Article 10

1. The Supreme Court shall, within no more than 2x24 hours from the date the petition for appeal is registered with the Clerk of the Supreme Court, study such petition and determine the day of the session;
2. The session for hearing the petition for appeal to the Supreme Court shall be held within 20 (twenty) days from the date of the decision in respect of which such petition for appeal is registered;
3. The decision regarding the petition for appeal to the Supreme Court must be determined within 30 (thirty) days of the date such petition for appeal to the Supreme Court is registered;
4. The decision concerning the petition for appeal to the Supreme Court as intended in paragraph (3) shall be pronounced in a public session;
5. Within no more than 2x24 hours from the date a decision concerning the petition for appeal to the Supreme Court is determined, the Supreme Court must submit to the Clerk of the Court, the petitioner, the party in respect of whom the petition is made and the liquidator and the Supervising Judge a copy of the decision concerning the appeal to the Supreme Court setting out in full the legalconsiderations underlying such decision.

Article 11

A judicial review may be filed to the Supreme Court in respect of a decision concerning a petition for declaration of bankruptcy which is final."

9. Amend the provisions of Article 12 to read in its entirety as follows:
"**Article 12**
   1. From the date of determining a decision concerning the declaration of bankruptcy, the liquidator shall be authorized to perform duties for the management and or settlement of the bankrupt estate, even if an appeal to the Supreme Court or judicial review is filed in respect of such decision;
   2. In the event that the decision concerning the declaration of bankruptcy is revoked as a result of an appeal to the Supreme Court or a judicial review, all actions under-taken by the liquidator before or on the date the liquidator receives notice regarding the revocation of decision as intended in Article 14 shall remain valid and binding on the debtor."

10. Amend the provisions of Article 13 to read in its entirety as follows:
"**Article 13**
   1. In the decision on the declaration of bankruptcy the following persons must be appointed :
      a. a Supervising Judge appointed from the Court Judges; and
      b. a liquidator.

   2. In the event that the debtor or creditor do not proposal the appointment of another liquidator to the Court, the Orphans' Chamber (*Balai Harta Peninggalan*) shall act as liquidator;
   3. The trustee appointed in a manner as intended in paragraph (1) letter b must be independent and have no conflict of interest with either the debtor or the creditor;
   4. Within 5 (five) days of the date of determination of the decision for the declaration of bankruptcy the liquidator shall announce in the Official Gazette of the Republic of Indonesia and in at least 2 (two) daily newspapers determined by the Supervising Judge the following matters:
      a. a summary of the decision on the declaration of bankruptcy;
      b. the identity, address and occupation of the debtor;

c. the identity, address and occupation of the members of the provisional creditors' committee, if already appointed;
d. the place and time the first creditors' meeting; and
e. the identity of the Supervising Judge."

11. Nullify the provisions of Article 14A.
12. Amend the provisions of Article 15 paragraph (2) and add three new provisions to become paragraph (3), paragraph (4) and paragraph (5), so that Article 15 paragraph (2), paragraph (3), paragraph (4) and paragraph (5) shall read as follows:
"**Article 15**
2. The judge ordering the termination of bankruptcy shall determine the amount of the bankruptcy expenses and the fee for the liquidator's services, and shall charge the same to the debtor;
3. Such expenses and fees for services must be given priority over all debts unsecured by a collateral;
4. No legal actions whatsoever may be brought against the judge's decision concerning the expenses and fees for services as intended in paragraph (2);
5. For the implementation of the payment of the expenses and fees for services as intended in paragraph (1), the judge shall issue an execution fiat."

13. Amend the provisions of Article 18 paragraph (2) and paragraph (3) to read as follows:
"**Article 18**
2. Further provisions concerning the form and contents of list as intended in paragraph (1) shall be Further stipulated by the Chairman of the Supreme Court;
3. The list as intended in paragraph (1) shall be open to the public and may be perused by any individuals without imposition of any charges."

14. Amend the provisions of Article 36 to read in its entirety as follows:
"**Article 36**
1. In the event that at the time declaration of bankruptcy is determined there is a mutual agreement which is not yet or is only partially fulfilled, the party with which the debtor entered into such agreement

may petition the liquidator to confirm the continued implementation of such agreement within the period agreed upon by the liquidator and said party;

2. In the event that no agreement is reached concerning the period as intended in paragraph (1), the Supervising Judge shall determine such period;
3. If within the period as intended in paragraphs (1) and (2) the liquidator does not respond or is not prepared to continue the implementation of such agreement, the agreement shall terminate and the party intended in paragraph (1) may claim compensation and shall be treated as an unsecured creditor;
4. In the event that the liquidator states his preparedness, the party intended in paragraph (1) may request that the liquidator provide guarantee of his preparedness for the implementation of such agreement;
5. The provision as intended in paragraphs (1), (2), (3) and (4) shall not apply to agreements requiring the debtor to independently undertake the action agreed upon."

15. Amend the provisions of Article 41 to read in its entirety as follows:
"**Article 41**
    1. In the interest of the bankruptcy assets it may be requested that any legal actions of a debtor declared bankrupt causing loss to the creditor's interests, which are undertaken prior to the determination of declaration of bankruptcy, be nullified;
    2. The nullification as intended in paragraph (1) may only be implemented if it can be proven that at the time of such legal action the debtor and the party with which such actions was undertaken were aware or should have been aware that such action would cause loss to the creditor;
    3. Exceptions from the provision intended in paragraph (1) shall be legal actions of debtors undertaken on the basis of the agreement and or because they are required by Law."

16. Amend the provisions of Article 42 to read in its entirety as follows:
"Article 42
In the event of legal actions causing loss to the creditor undertaken within 1 (one) year prior to the determination of the decision of the declaration of bankruptcy, while such actions are not mandatorily undertaken by the

debtor, then, unless it can be proved to the contrary, the debtor and the party with which such actions were undertaken shall be deemed to have been aware or should have been aware that such actions would cause loss to the creditor as intended in Article 41 paragraph (2), in the event that such actions:

a. are obligations in which the debtor's liabilities exceed by far the obligations of the party with which such commitment is entered into;
b. constitute payment for, or provision of IT guarantee for debts which have not yet reached maturity or which are not yet payable;
c. are undertaken by an individual debtor, with or in respect of:
    1. her husband or his wife, adopted child, or his/her relatives up to the third degree;
    2. a legal entity in which the debtor or ID the parties intended in figure 1) are members of the board of directors or management or if Such parties, either (severally?) or jointly, participate either directly or indirectly in the ownership of the aforementioned legal entity by at least 50% (fifty percent) of the paid-up capital;
d. is undertaken by a debtor constituting a legal entity, with or in respect of:
    1. a member of the directors or management of the debtor, or the husband/wife, or the adopted child or relative tip to the third degree, of such members of the board of directors or management;
    2. individuals, either severally or jointly with husband/wife, or adopted child, or relatives up to the third degree of such individuals, participating directly or indirectly in the ownership of the debtor by at least 50% (fifty percent) of the paid up capital;
    3. individuals, the husband/wife, or adopted child, or relatives up to the third degree of whom participate either directly or indirectly in the ownership of the debtor by at least 50% (fifty percent) of the paid-up capital;
e. is undertaken by a debtor constituting a legal entity with or in respect of another legal entity, if:
    1. the individual member of the board of directors or management in both such business entities are the same person;
    2. the husband/wife, adopted child or relatives up to the third degree of the individual member of the board of directors or management of the debtor are members of the board of directors or management

of another legal entity, or vice versa;

3. the individual member of the board of directors or management, or the members of the Supervisory body of the debtor, or the husband/wife, or the adopted child, or relatives Lip to the third degree, either severally or jointly. participate either directly or indirectly in the ownership of the legal entity by at least 50% (fifty percent) of the paid up capital, or vice versa;
4. the debtor is a member of the board of directors or management of another legal entity, or vice versa;
5. the same legal entity, or the same individual, either jointly or not with her husband/his wife, and his/her adopted child and relatives up to the third degree participate directly or indirectly in both such legal entities by at least 50% (fifty percent) of the paid up capital;

f. is undertaken by the debtor constituting a legal entity with or towards another legal entity within the group of legal entities of which the debtor is a member."

17. Amend the provisions of Article 43 to read as follows:
"**Article 43**
The nullification of grants made by the debtor may be requested if the liquidator can prove that at the time such grant was made the debtor was aware or should have been aware that such action would cause loss to the creditors."

18. Amend the provisions of Article 44 to read as follows:
"**Article 44**
Unless it can be proven otherwise, the debtor shall be deemed to be aware or should be aware that such grant would cause loss to the creditor if such grant is made within 1 (one) year prior to the determination of the decision on tile declaration of bankruptcy."

19. Delete the provisions of Article 45.
20. Amend the provisions of Article 56 paragraph (1) to read as follows:
"**Article 56**
1. Bearing in mind the provisions of Article 56A, any creditor holding security rights, pledge or collateral right on other property, may ex-

ecute his rights as if no bankruptcy occurred."

20. Add a new provision between Article 56 and Article 57, which shall become Article 56A and shall read as follows:
"**Article 56A**
1. The creditor's execution right as intended in Article 56 paragraph (1) and the right of a third party to claim his assets which are under tile control of the bankrupt debtor or the liquidator shall be deferred for a period of not more than 90 (ninety) days from the date the decision on the bankruptcy is determined;
2. The deferment as intended in paragraph (1) shall not apply to claims of creditors which are secured by cash and rights of creditors to reconcile debts;
3. During the period of the deferment as intended in paragraph (1), the liquidator may use or sell the bankrupt estate which is under the supervision of the liquidator in respect of the continuation of the business of the debtor, provided that reasonable protection has been given for the interests of the creditors or any third parties as intended in paragraph (1);
4. The period as intended in paragraph (1) shall expire by law upon the earlier termination of bankruptcy or upon commencement of insolvency as intended in Article 168 paragraph (1);
5. Creditors or third parties whose rights are deferred may file a petition to the liquidator to remove such deferment or alter the conditions of such;
6. If the liquidator rejects the petition as intended in paragraph (5), the creditor or the third party may file such petition to the Supervising Judge;
7. The Supervising Judge must, no later than one working day from the filing of the petition as intended in paragraph (6), order the liquidator to immediately summon, by registered letter or courier, the creditor and the third party as intended in paragraph (6) for a hearing,
8. The Supervising Judge must decide upon such petition within no more than 10 (ten) days from the filing of the petition referred to in paragraph (6) to the Supervising Judge.
9. In deciding upon the petition intended in paragraph (6), the Supervising Judge shall take into consideration:

a. the period of deferment which has already elapsed;
b. the protection of the interests of the creditor and third party concerned;
c. the possibility of reconciliation; and
d. the impact of such deferment on the continuation and management of the debtor's business and the settlement of bankrupt estate.

10. The decision of the Supervising Judge regarding the petition as intended in paragraph (6) may be in the form of removing the deferment for one or more creditor, and or determining the conditions concerning the period of deferment, and or concerning one or more of the collateral items which may be executed by the creditors.
11. If the Supervising Judge refuses to remove or change the conditions of such deferment, the Supervising Judge must order that the liquidator provide reasonable protection for the interests of the petitioner.
12. The creditor or the third party which files the petition as intended in paragraph (6) or the liquidator may file a response with the Court in respect of the decision of the Supervising Judge within 5 (five) days counting from the time such decision is determined, and the Court must decide upon such response within no more than ten days from the date such response is filed.
13. No appeals to the Supreme Court or judicial review may be filed in respect of the Court's decision as intended in paragraph (12)."

21. Amend the provisions of Article 57 so that it reads in its entirety as follows:
"**Article 57**
1. With due consideration of the provisions of Article 56A, a creditor holding rights as intended in Article 56 paragraph (1), must exercise such rights within 2 (two) months from the commencement of insolvency as intended in Article 168 paragraph (1);
2. Upon the expiration of the period intended in paragraph (1), the liquidator must demand the transfer of goods serving as collateral to be sold in accordance with the procedure as intended in Article 169, without prejudice to the said right of the holder of right to obtain the proceeds from the sale of such collateral;
3. The liquidator may release goods serving as collateral at any time by paying the to the creditor concerned either the market price of the

collateral goods or the total debt secured by such collateral goods, whichever is the smaller amount."

22. Amend the provisions of Article 58 to read in its entirety as follows:
"**Article 58**
1. The holder of right as intended in Article 56 paragraph (1) who exercises his rights must account to the liquidator for the proceeds of the sale of goods serving as collateral and submit to the liquidator the balance of the proceeds from the sale after deducting the amount of the debt, interest and expenses;
2. Upon the claim of the trustee or creditor with priority right, the holder of right as intended in paragraph (1) must submit a part of the proceeds of such sale, in an amount which is the same as the amount of the claims which are prioritized;
3. The provisions of paragraph (1) and paragraph (2) shall also apply to holders of collateral right on harvest;
4. If the proceeds from the sale as intended in paragraph (1) are not sufficient to settle the debt concerned, the holder of such right may file a claim for tile settlement of such deficit from the bankrupt estate as an unsecured creditor, after filing a request for the verification of claims."

23. Amend the provisions of Article 65 paragraph (3) and paragraph (4) to read as follows:
"**Article 65**
3. Witness failing to appear or refusing to testify shall be subject to the provisions of Article 140, Article 141 and Article 148 of the Revised Regulations of Indonesia *(Het Inlandsch Reglement)* or Articles 166, 167 and 176 of the Civil Procedure for Regions Outside Java and Madura *(Rechtsreglement Buitengewesten)*;
4. If the legal domicile of a witness lies outside the jurisdiction of the Court determining the decision on the declaration of bankruptcy, the Supervising Judge may delegate the hearing of the testimony of tile witnesses to the Court the jurisdiction of which covers the legal domicile of such witness."

24. Amend the title of Part Three Paragraph 2 to read as follows:
"**Paragraph 2**

Concerning the Liquidator"

25. Amend the provisions of Article 67 to read in its entirety as follows:
"**Article 67**
1. The task of the liquidator shall be to manage and or settle the bankrupt estate;
2. In performing its tasks, the liquidator:
   a. shall not be required to obtain the approval of or to give prior notice to the debtor concerned, even though in circumstances outside bankruptcy such approval or notice is a requirement;
   b. may obtain a loan from a third party, only in respect of increasing the value of the bankrupt estate.
3. If in obtaining a loan from a third party the liquidator needs to encumber the bankrupt estate with a security right, pledge or collateral right on other property, the prior approval of the Supervising Judge must be obtained for such loan;
4. The encumbering of the bankrupt estate with security rights, pledge or collateral right on other property as intended in paragraph (3) may only be executed in respect of those parts of the bankrupt estate that have not been made security for a debt.
5. To appear before the Court, the liquidator must first obtain the approval of the Supervising Judge, unless in respect of disputes concerning the verification of claims or in matters as intended in Article 36, Article 38, Article 39 and Article 57 Paragraph (2)."

26. Add several new provisions between Article 67 and Article 68, which shall become Article 67A, Article 67B, Article 67C and Article 67D and shall read as follows:
"**Article 67A**
1. The liquidator referred to in Article 67 shall be:
   a. The Orphans' Chamber; or
   b. another liquidator.
2. The following parties may be liquidators as intended in paragraph (1) letter b :
   a. individuals or civil partnerships domiciled in Indonesia possessing specific expertise required in respect of the management and or settlement of the bankrupt estate; and

b. registered at the Ministry of Justice.

Article 67B

1. The court may at any time approve a proposal for the replacement of the liquidator, after having summoned and heard the liquidator concerned, and may appoint another liquidator and or appoint additional liquidators:
   a. upon the request of the liquidator itself;
   b. upon the request of another liquidator, if any;
   c. upon the request of the Supervising Judge; or
   d. upon the request of the bankrupt debtor.
2. The court must discharge or appoint a liquidator at the request or at the proposal of an unsecured creditor based on the resolution of the creditors' meeting held as intended in Article 81, provided that such decision is taken on the basis of a vote of approval of more than 1/2 (one half) of the total unsecured creditors or their proxies who are present at the meeting and who represent more than 1/2 (one half) of the total claims of the unsecured creditors or their proxies who are present at such meeting.

Article 67C

The liquidator shall be responsible for any faults or negligence in performing its management and or settlement tasks which cause loss to the bankrupt estate.

Article 67D

With due attention to the provisions of Article 69, the amount of the fee for the services of the liquidator shall also be included in the decision on the declaration of bankruptcy."

27. Amend the provisions of Article 69 to read in its entirety as follows:
"**Article 69**
The amount of the fee that must be paid to the liquidator shall be determined on the basis of guidelines stipulated by the Minister of Justice."

28. Add 2 (two) new provisions between Article 70 and Article 71 which shall become Article 70A and Article 70B, and shall read as follows:

"**Article 70A**

1. If more than one liquidator is appointed, the liquidators shall require the approval of more than 1/2 (one half of the total number of liquidators in order to undertake any legal and binding actions;
2. In the event of a tie, the approval of the Supervising Judge shall be required for the actions intended in article (1);
3. A liquidator appointed for a specific task based on the decision for the declaration of bankruptcy shall be authorized to act independently within the scope of its assignment.

Article 70B

1. The liquidator must submit quarterly reports to the Supervising Judge concerning the condition of the bankrupt estate and the implementation of its tasks;
2. The report intended in paragraph (1) shall be open to the public and may be perused by any individuals free of charge;
3. The Supervising Judge may extend the period intended in paragraph (1)."

29. Amend the provisions of Article 72 paragraph (1) and paragraph (2) to read as follows:

"**Article 72**

1. Upon the completion of the verification of claims, the Supervising Judge must offer the creditors the formation of a permanent Creditors' Committee;
2. At the request of the unsecured creditors based on the decision of the unsecured creditors made by an ordinary majority vote in the creditors' meeting, theSupervising Judge shall:
   a. replace the provisional creditors' committee, if such provisional creditors' committee was appointed in the decision on the declaration of bankruptcy; or
   b. form a creditors' committee, if no creditors' committee was appointed in the decision on the declaration of bankruptcy."

30. Add a new provision between Article 77 and Article 78, which shall become Article 77A, which shall read as follows:

"**Article 77A**

1. The Supervising Judge shall determine the day, date, time and venue of the first Creditors' meeting, which must be held within 15 (fifteen) days from the date of determination of the decision on the declaration of bankruptcy;
2. Within no more than 3 (three) days from the determination of the decision on the declaration of bankruptcy, the Supervising Judge must submit to the liquidator the proposal to convene the first creditors' meeting, as intended in paragraph (1);
3. Within no more than 5 (five) days from the date of determination of the decision on the declaration of bankruptcy, the liquidator must notify the creditors by registered letter or courier."

31. Amend the provisions of Article 78 to read in its entirety as follows:
"**Article 78**
1. Unless stipulated otherwise in this Law, all decisions of the creditors' meeting shall be made on the basis of a vote of approval of more than 1/2 (one half) of the votes cast by the creditors and/or their proxies attending the meeting concerned;
2. The counting of voting rights of the creditors shall be further stipulated in a Government Regulation;
3. The solving of claims after the determination of declaration of bankruptcy shall not have voting rights."

32. Amend the provisions of Article 90 to read in its entirety as follows:
"**Article 90**
1. The bankrupt estate may be sealed upon the approval of the Supervising Judge, for the purpose of safeguarding the bankrupt estate;
2. The sealing as intended in paragraph (2) shall be executed by the Clerk of the Court or the Clerk of the Court's Substitute at the place of such assets in the presence of two witnesses, one of whom shall be the representative of the local Regional Government."

33. Amend the provisions of Article 95 to read as follows:
"**Article 95**
1. Based on the approval of the Creditors' Committee. the liquidator may continue the business of the debtor who is declared bankrupt even if

an appeal to the Supreme Court or judicial review is filed in respect of such decision on the declaration of bankruptcy;

2. In the event that no Creditors' Committee is appointed in the decision on the declaration of bankruptcy, the approval to continue the business as intended in paragraph (1) may be granted by the Supervising Judge."

34. Amend the provisions of Article 95 to read in its entirety as follows:
"**Article 95**

1. On the basis of the approval of the Creditors' Committee, the liquidator may continue the business of the debtor who is declared bankrupt even if an appeal to the Supreme Court or a judicial review is filed in respect of such determination of the declaration of bankruptcy;
2. If a Creditors' Committee is not appointed in the determination of the declaration of bankruptcy, the approval for the continuation of the business as intended in paragraph (1) may be given by the Supervising Judge."

35. Amend the provisions of Article 98 paragraph (1) to read as follows:
"**Article 98**

1. Upon the approval of the Supervising Judge, the liquidator may transfer the bankrupt estate insofar as this is necessary to cover the costs of the bankruptcy or if its retention would cause loss to the bankrupt estate, even if an appeal to the Supreme Court or a judicial review is filed in respect of the determination of the declaration of bankruptcy."

36. Amend the provisions of Article 104, to read in its entirety as follows:
"**Article 104**

1. If the value of the bankrupt estate which can be paid to privileged creditors and unsecured creditors exceeds the amount of claims on the bankrupt estate, within no more than 14 (fourteen) days from the time the decision on the declaration of bankruptcy becomes final, the Supervising Judge may determine:
   a. the time limit for the submission of claims;
   b. the day, date, time and venue of the Creditors' Meeting for the verification of claims.

2. There must be at least 14 days between the dates mentioned in letter a

and letter b above."

37. Amend the provisions of Article 109 to read in its entirety as follows:
"**Article 109**
1. The list as intended in Article 108 shall also include a note against each claim stating whether in the liquidator's opinion such claims are prioritized or secured by security rights, pledge, or collateral rights on other assets or whether the retention right for such claims may be exercised;
2. If the trustee contests only the existence of priority right or retention right in respect of a claim, such claim must be included in the list of provisionally admitted claims, together with the liquidator's notes concerning his contest and the reasons thereof."

38. Amend the provisions of Article 124 to read in its entirety as follows:
"**Article 124**
1. Interest on a debt which arises after the determination of the declaration on bankruptcy may not be included in the verification of claims unless and only insofar as it is secured by security right, pledge or a collateral right on other assets;
2. Pro memoria verification of claim must be conducted in respect of interest as intended in paragraph (1);
3. If the interest concerned cannot be settled from the proceeds from the sale of goods serving as collateral, the creditor concerned cannot exercise his right which arise from the verification of claims."

39. Amend the provisions of Article 128 to read in its entirety as follows:
"**Article 128**
Creditors whose claims are secured by security rights, pledge or collateral rights on other assets or those having priority rights on an asset within the bankrupt estate and who can prove that part of such claim probably cannot be repaid from the proceeds from the sale of the goods serving as collateral, may request that the rights of unsecured creditors upon such portion of the a claim be granted to them, without prejudice to the right to be given precedence over goods serving as collateral for their respective claims."

40. Amend the provisions of Article 129 with and add a new provision which

shall become Article 129 paragraph (2), and shall read as follows:
"**Article 129**

2. The determination of the value of a claim in Rupiah as intended in paragraph (1) shall be made on the date of the determination of decision on the declaration of bankruptcy."

41. Amend the provisions of Article 139 paragraph (1) to read as follows:
"**Article 139**

1. With due attention to the provisions in Article 128, if in respect of the rights of the creditors holding security rights, pledge or collateral rights on any other assets or holders of collateral right on harvest and any creditors who are privileged, including creditors whose rights are prioritized, file an objection, such creditors may not vote in respect of a reconciliation proposal, unless they have forfeited their priority rights in the interests of bankrupt estate prior to the vote concerning such reconciliation proposal."

42. Amend the provisions in Article 141, to read in its entirety as follows:
"**Article 141**

The reconciliation proposal shall be accepted if approved in the creditors' meeting by more than 1/2 (one half) of the total of unsecured creditors attending the meeting and whose rights are admitted, or are provisionally admitted, who represent no less than 2/3 (two thirds) of the total unsecured claims which are admitted or provisionally admitted of the unsecured creditors or their proxies attending such meeting."

43. Amend the provisions in Article 142, to read in its entirety as follows:
"**Article 142**

1. If more than 1/2 (one half) of the number of creditors who are present at the Creditors' Meeting representing at least 1/2 (one half) of the total claims of creditors having voting rights agree to accept the reconciliation proposal, within a period of no more than 8 (eight) days from when the first vote was held, a second vote shall be held without need of a summons;
2. At the second vote, the creditors shall not be bound by the vote they cast in the first vote."

44. Delete the provision in Article 149 paragraph (3).
45. Amend the provisions in Article 151, to read in its entirety as follows:
"**Article 151**
    1. An appeal to the Supreme Court in respect of the decision of the Court as intended in Article 150-shall be undertaken in accordance with the provisions set forth in Article 8, Article 9 and Article 10;
    2. The provisions referred to in Article 148, except the provision concerning the Supervising Judge, and in Article 149 paragraph (1), shall also apply in the hearing of the petition for appeal referred to in paragraph (1)."

46. Amend the provisions in Article 162 paragraph (3), to read as follows:
"**Article 162**
    3. The liquidator must disclose and announce the decision as intended in paragraph (1) in the manner as intended in Article 13 paragraph (4)."

47. Amend the provisions in Article 170 paragraph (1), to read as follows:
"**Article 170**
    1. With due attention to the provision in Article 12 paragraph (1), the liquidator must begin the settlement and sale of the entire bankrupt estate without requiring the approval or assistance of debtors if:
        a. the proposal to manage the debtor's company is not submitted within the period set forth in this Law, or the said proposal has been submitted but has been rejected; or
        b. the management of the debtor's company is terminated."

48. Amend the provisions in Article 182 paragraph (1), paragraph (2) and paragraph (3), to read as follows:
"**Article 182**
    1. With regard to the decision of the Court as intended in Article 180 paragraph (3), the liquidator or any reditor may file a petition for appeal to the Supreme Court;
    2. Appeals to the Supreme Court against the Court decision referred to in paragraph (1) shall be executed in accordance with the provisions referred to in Article 8, Article 9 and Article 10;
    3. For the purpose of the hearing of an petition for appeal, the Supreme Court may summon the liquidator or creditors."

49. Change the title CHAPTER TWO Regarding the Deferment of Payment, to read as follows:
"CHAPTER TWO REGARDING THE MORATORIUMON DEBT REPAYMENT"

50. Amend the provisions in Article 212, to read in its entirety as follows:
"**Article 212**
Debtors who are unable, or expect that they will be unable, to continue paying those debts which have matured and must be paid, may request a moratorium on the repayment of their debts, with the general intention of presenting a reconciliation proposal that includes an offer to pay all or part of their debts to unsecured creditors."

51. Amend the provisions in Article 213, to read in its entirety as follows:
"**Article 213**
1. The petition for a moratorium on debt repayment referred to in Article 212 must be filed by the debtor to the Court as referred to in Article 2, signed by both the debtor and his legal advisor, and accompanied by the list referred to in Article 93, and any other appropriate documentary evidence;
2. The reconciliation proposal referred to in Article 212 may be attached to the aforementioned petition;
3. The provisions referred to in Article 4 paragraph (1), paragraph (2), paragraph (3) and paragraph (4) and also Article 6 paragraph (5) shall apply *mutatis mutandis* as the procedure(s) for filing a petition for a moratorium on debt repayment referred to in paragraph (1)."

52. Amend the provisions in Article 214, to read in its entirety as follows:
"**Article 214**
1. The petition and its attachments must be made available at the Office of the Clerk of the Court, so that they may be perused free of charge by the public, in particular by the parties concerned;
2. The court must immediately grant temporary moratorium on debt repayment and must appoint a Supervising Judge from among the Court Judges, and appoint 1 (one) or more trustees who, together with the

debtor, shall manage the debtor's assets;

3. Immediately after the decision on the temporary moratorium on debt repayment is stipulated, the Court, via the trustee, must summon the debtor and known creditors by official registered letter or courier, to appear at the session which shall be held no later than the 45th (forty fifth) day after the decision on the provisional moratorium on debt repayment was stipulated."

53. Amend the provisions in Article 215, to read in its entirety as follows:
"**Article 215**

1. The trustee must immediately announce the decision on the provisional moratorium on debt repayment in the Official Gazette and in 1 (one) or more daily newspapers designated by the Supervising Judge, and such announcement must also contain an invitation to attend the session which shall be in the form of a judges' deliberation meeting, together with the date, venue and time of the said session, the name of the Supervising Judge and the name and address of the trustee;
2. If the reconciliation proposal is attached to the petition, such matter must be mentioned in the said announcement, and the announcement must be made no less than-21 (twenty one) days before the proposed date of the session."

54. Amend the provisions in Article 216, to read in its entirety as follows:
"**Article 216**

The decision on the temporary moratorium on debt repayment shall be valid from the date such moratorium on debt repayments is pronounced and shall continue until the date the meeting intended in Article 215 is held."

55. Amend the provisions in Article 217, to read in its entirety as follows:
"**Article 217**

1. On the day of the session, the Court must hear the debtor, Supervising Judge, trustee and creditors who are present or their representatives appointed by Power of Attorney, and each and every creditor shall be entitled to be present at such session, notwithstanding that those concerned have not received a summons thereto;

2. If the reconciliation proposal is attached to the petition for temporary moratorium on debt repayment as intended in Article 213, or it has been submitted by the debtor prior to the session, the vote regarding the reconciliation proposal may take place if the provisions in Article 252 have been fulfilled;
3. In the event that the provisions referred to in paragraph (2) have not been fulfilled, or if the unsecured creditors have not yet voted on the reconciliation proposal, then at the request of the debtor the creditors must decide to grant or refuse a permanent moratorium on debt repayment, with the intention of allowing the debtor, trustee and creditors to consider and agree upon reconciliation in a meeting or session which shall be held subsequently;
4. If the permanent moratorium on debt repayment referred to in paragraph (3) is approved, such moratorium and the extension thereof may not exceed 270 (two hundred and seventy) days from when the decision on the temporary moratorium on debt repayment is stipulated;
5. The granting of a permanent moratorium on debt repayment and the extension thereof shall be determined by the Court on the basis of the approval of more than 1/2 (one half) of the unsecured creditors whose rights are admitted or provisionally admitted present who represent at least 2/3 (two thirds) of all claims admitted or provisionally admitted of the unsecured creditors or their proxies present at such session, and any dispute which arises between the trustee and the creditors concerning the voting rights of the creditors must be decided by the Supervising Judge;
6. If the petition for declaration of bankruptcy and the petition for moratorium on debt repayment are heard at the same time, then the petition for moratorium on debt repayment must be decided first."

56. Add 5 (five) new provisions between Article 217 and Article 218 which shall become Article 217A, Article 217B, Article 217C, Article 217D and Article 217E, which shall read as follows:
"**Article 217A**
1. If the temporary moratorium on debt repayment is terminated because the unsecured creditors do not agree to the granting of a permanent memoratium on debt repayment or an extension thereof has been granted

but as of the end of the period referred to in Article 217 paragraph (4) an agreement has not been reached regarding the reconciliation proposal, then on the final day the trustee must inform the Court, which must declare the Debtor bankrupt no later than on the next day;
2. the trustee must announce matters referred to in paragraph (1) in the daily newspapers wherein the petition for moratorium on debt repayment was announced on the basis of Article 215.

Article 217B

1. The Court must appoint a Creditors' Committee if:
   a. the petition for the moratorium on debt repayment includes debts of a substantial amount or of a complex nature; or
   b. such appointment is desired by unsecured creditors representing at least 1/2 (one half) of all admitted claims.

2. In the implementation of its functions, the trustee must accept and consider the recommendations of the Creditors' Committee.

Article 217C

1. The Clerk of the Court must make a general list which includes, for each moratorium on debt repayment:
   a. the date when the temporary moratorium on debt repayment is granted, and the date when the permanent moratorium on debt repayment is granted, as well as any extensions thereof;
   b. The citation of the Court decision stipulating the moratorium on debt repayment, whether temporary or permanent in nature, and extensions thereof;
   c. the name of the Supervising Judge and the trustee appointed;
   d. a summary of the content of the reconciliation and the ratification of such reconciliation by the Court;
   e. the conclusion of the reconciliation.

2. Further provisions regarding the form and content of the said general list shall be stipulated by the Supreme Court;
3. The Clerk of the Court must make the general list available for perusal by any individual free of charge.

Article 217D

1. If requested by the Trustee, the Supervising Judge may hear witnesses or order the hearing of experts to explain the circumstances surrounding the moratorium on debt repayment, and such witnesses shall be summoned in accordance with the provisions of the law of civil procedure;
2. In the event that witnesses do not appear or refuse to take the oath or give testimony, then the provisions of the law of civil procedure shall apply in respect of such matter;
3. Husbands/wives or former husbands/wives, their children and descendants, and the parents and grandparents of the debtor may exercise their rights to be exempted from the obligation to bear witness.

Article 217E

1. A trustee shall be appointed in the decision concerning the temporary moratorium on debt repayment as intended in Article 214;
2. The trustee appointed as intended in paragraph (1) must be independent and have no conflict of interest with the debtor or the creditors;
3. Those who may become trustees as intended in paragraph (1), shall be:
   a. individuals or civil partnerships domiciled in Indonesia, who possess special expertise needed in respect of managing the debtor's assets;
   b. registered with the Ministry of Justice;
4. The trustee shall be held personally responsible if any fault or negligence in the implementation of his management duties causes loss to the debtor's assets;
5. The amount of the expenses for the management of the debtor's assets shall also be included in the decision on the original moratorium on debt repayment, including the fees for the services of the trustee based on guidelines stipulated by the Ministry of Justice."

57. Delete the provisions of Article 218, Article 219 and Article 221.
58. Amend the provisions of Article 222, to read in its entirety as follows:
"**Article 222**

1. If more than one trustee is appointed, then in order to execute actions which are legal and binding, the trustees require the agreement of more

than 1/2 (one half) of the trustees;
2. If there are the same number in favor as against, the action as intended in paragraph (1) must obtain the approval of the Supervising Judge;
3. The trustees appointed as intended in Article 214 paragraph (2) may be replaced or supplemented by the Supervising Judge at the request of unsecured creditors, and such request may only be submitted if it is based on the agreement of such creditors in a creditors' meeting by majority vote."

59. Amend the provisions of Article 223, to read in its entirety as follows:
"**Article 223**
1. In the decision granting the moratorium on debt repayment the Court may include any provisions deemed necessary for the interests of the creditors;
2. The Supervising Judge may conduct the matter intended in paragraph (1) at any time during the moratorium on debt repayment, on the basis of:
   a. the initiative of the Supervising Judge;
   b. the request of the trustee; or
   c. the request of one or more creditors."

60. Amend the provisions of Article 224, to read in its entirety as follows:
"**Article 224**
1. If the moratorium on debt repayment has been granted, the Supervising Judge may appoint one or more experts to conduct an investigation and compile a report concerning the condition of the assets of the debtor within a specified period and extension thereof which shall be stipulated by the Supervising Judge;
2. The experts' report as intended in paragraph (1) must include an opinion accompanied by the full reasons thereof concerning the condition of theassets of the debtor and the documents surrenderedby the debtor as well as the willingness or ability of the debtor to fulfill his obligations to the creditors, and such report must, to the extent possible, indicate the measures that must be taken in order to be able to meet the demands of the creditors;
3. The experts must make the report as intended in paragraph (2) available at the office of the Clerk of the Court so that it may be perused by

the public free of charge, and no fee shall be charged for making such report available;

4. The provisions as intended in Article 222 shall also apply to the experts."

61. Amend the provisions of Article 225, to read in its entirety as follows:
"**Article 225**

1. The trustee must report on the condition of the debtor's assets every 3 (three) months, and such report must also be made available at the office of the Clerk of the Court as intended in Article 224 paragraph (3);
2. The reporting period as meant in paragraph (1) may be extended by the Supervising Judge."

62. Amend the provisions of Article 226, to read in its entirety as follows:
"**Article 226**

1. During the moratorium on debt repayment, the debtor may not, without the authority of the trustee, take any management actions or transfer the rights to any item that is part of his assets, and if the debtor violates this provision, the trustee shall be entitled to take any and all measures necessary to ensure that the debtor's assets are not depleted because of such actions of the debtor;
2. Those of the debtor's obligations undertaken without the authority of the trustee, and which arise after the commencement of the moratorium on debt repayment, may only be charged to the debtor's assets insofar as such matter benefits the debtor's assets;
3. Upon the authority of the trustee, the debtor may obtain loans from a third party only in respect of increasing the value of the debtor's assets.
4. If a collateral is required to obtain the loan as intended in paragraph (3), the debtor may encumber his assets by security right, pledge or collateral right on other property, provided such loan has the approval of the Supervising Judge;
5. The encumbrance of the bankrupt estate by security right, pledge or collateral right on other property as intended in paragraph (3) may only be executed on the part of the debtor's assets which have not yet been made a cash security."

63. Amend the provisions of Article 228, to read in its entirety as follows:
"**Article 228**
1. During the moratorium on debt repayment, the debtor may not be forced to pay his debts as intended in Article 231, and any acts of execution that have been commenced in order to obtain the settlement of debts, must be postponed;
2. Unless an earlier date is stipulated by the Court at the request of the trustee, all confiscations of goods already applied shall terminate upon the determination of the permanent moratorium on debt repayment, or after the approval of the reconciliation has become final, and at the request of the trustee or the Supervising Judge, the Chairman of the Court must, if necessary, stipulate the removal of the confiscation applied upon goods included in the debtor's assets;
3. The provisions as intended in paragraph (1) and paragraph (2) shall also apply in respect of execution and confiscation which have already commenced on goods which are not encumbered as collateral even though such execution and confiscation are related to the creditors' claims and are secured by security right, pledge or collateral right on other property or by rights which must be privileged in connection with certain assets based on the Law."

64. Amend the provisions of Article 230, to read in its entirety as follows:
"**Article 230**
1. With due attention to the provisions of Article 231A, a moratorium on debt repayments shall not apply in respect of:
   a. claims guaranteed by pledge, security rights, collateral right on other property, or privileged claims in respect of certain goods belonging to the debtor;
   b. claims for payment for maintenance, supervision or training that must be paid, and the Supervising Judge must determine the amount of such claims collected prior to the moratorium on debt repayment which do not constitute claims with the right to be prioritized.

2. In the event that assets which are made as collateral by pledge, security rights and collateral rights to other assets are insufficient to secure claims, then the creditors secured by such collateral shall acquire rights as unsecured creditors, including the right to vote while the morato-

rium on debt repayment is in effect."

65. Add a new provision between Article 231 and Article 232 which shall become Article 231A, and shall read as follows:
"**Article 231A**
The provision intended in Article 56A shall apply *mutatis mutandis* in respect of the exercise of creditors' rights as intended in Article 56 paragraph (1) and privileged creditors, with the provision that the postponement shall apply while the moratorium on debt repayment is in effect."

66. Amend the provisions of Article 234, to read in its entirety as follows:
"**Article 234**
1. In the event that when the decision to impose a moratorium on debt repayment is stipulated there is a mutual agreement which has yet to be, or has only partly been fulfilled, then the party with whom the debtor enters into the agreement may request the trustee to provide assurance of the continued implementation of the agreement concerned within a period of time agreed on by the trustee and such party;
2. If no agreement is reached concerning the period referred to in paragraph (1), the Supervising Judge shall stipulate such period;
3. If within the period referred to in paragraph (1) and paragraph (2) the trustee does not respond, or is not prepared to continue the implementation of such agreement, the agreement shall be terminated and the party referred to in paragraph (1) may claim for compensation as an unsecured creditor;
4. If the trustee declares his readiness, the trustee shall furnish a guarantee of his readiness to implement the said agreement;
5. The provisions referred to in paragraph (1), paragraph (2), and paragraph (3) shall not apply in respect of agreements requiring the debtor to execute the agreed actions independently."

67. Amend the provisions of Article 237, to read in its entirety as follows:
"**Article 237**
1. Immediately after the commencement of the moratorium on debt repayment, the debtor shall be entitled to dismiss his employees, paying heed to the provisions of Article 226 and the period which has been agreed or is required by the prevailing laws and regulations, with the

understanding that such employment may nevertheless be terminated by notification of such termination of employment in accordance with the provisions of the prevailing labor laws and regulations;

2. When the moratorium on debt repayments comes into effect, any salaries and other expenses arising from such employment shall become debts of the debtor's assets."

68. Amend the provisions of Article 240, to read in its entirety as follows:
"**Article 240**

1. After the moratorium on debt repayment has been granted, such moratorium may be terminated, whether at the request of the Supervising Judge, or at the request of the trustee or one or more creditors, or upon the initiative of the Court itself, in the event that:
   a. during the period of the moratorium on debt repayment the debtor acts in bad faith in the management of his assets;
   b. the debtor attempts to harm the creditors;
   c. the debtor violates the provisions of Article 226 paragraph (1);
   d. the debtor fails to conduct those actions which are required of him by the Court when the moratorium on debt repayment is granted, or subsequently, or fails to conduct such actions required by the trustee in the interests of the debtor's assets;
   e. during the period of the moratorium on debt repayment, the condition of the debtor's assets makes the continuation of the moratorium on debt repayments unfeasible; or
   f. the debtor, due to the circumstances, cannot be expected to fulfill his obligations to creditors on time;

2. In the situation referred to in paragraph (1) letter a and letter e, the trustee must file a petition for the termination of the moratorium on debt repayment;
3. The petitioner, the Debtor and Trustee must be properly heard or summoned, and such summons shall be issued by the Clerk of the Court on the date stipulated by the Court;
4. The Court's decision must contain the reasons underlying the said decision;
5. If the moratorium on debt repayment is terminated on the basis of the provisions in this Article, the Debtor must be declared bankrupt in the

same decision;

6. The hearing of a petition for the termination of the moratorium on debt repayment as referred to in paragraph (1) must be concluded within a period of 10 (ten) days from the filing of such petition and the Court's decision must be rendered within a period of 10 (ten) days from the conclusion of the hearing."

69. Amend the provisions of Article 241, to read in its entirety as follows:
"**Article 241**
The provisions referred to in Article 8, Article 9, Article 10 and Article 11 shall apply *mutatis mutandis* in respect of decisions for the conclusion of a moratorium on debt repayment."

70. Amend the provisions of Article 243, to read in its entirety as follows:
"**Article 243**
1. If the Court considers that the session for the petition for the termination of a moratorium on debt repayment cannot be concluded before the date on which the creditors are to be heard as stipulated in Article 214 paragraph (3), the Court must order that the creditors be notified in writing that they cannot be heard on such date;
2. If necessary, the Court shall, as soon as possible, stipulate another date for the session and in such case the creditors must be summoned by the trustee."

71. Amend the provisions of Article 246, to read in its entirety as follows:
"**Article 246**
1. If bankruptcy is declared in accordance with the provisions of this chapter, or within 2 (two) months of the conclusion of a moratorium on debt repayment, the following provisions shall apply:
   a the period mentioned in Article 42 and Article 44 must be counted from the point when the moratorium on debt repayment comes into effect;
   b. the liquidator shall have the authority given to the trustee in accordance with Article 226 paragraph (1);
   c. legal actions conducted by debtors, after being granted the authority of the trustee to conduct the same, must be considered as legal actions conducted by the liquidator, and debts of the debtor's assets

which are incurred while the moratorium on debt repayment is in effect shall constitute debts of the bankrupt estate;

d. Obligations of the Debtor which arise during the moratorium on debt repayment without the authority of the Trustee may not be charged to the debtor's assets, unless such matter benefits the debtor's assets.

2. If a petition for a moratorium on debt repayment is filed within a period of 2 (two) months of the conclusion of the previous moratorium on debt repayment, then the provisions in paragraph (1) shall also apply to the following moratorium."

72. Amend the provisions of Article 247, to read in its entirety as follows:
"Article 247

1. The provisions as meant in Article 69 shall apply *mutatis mutandis* in respect of the fee for the services of the trustee;
2. The fee for the services of the experts appointed on the basis of Article 224 shall be determined by the trustee."

73. Amend the provisions of Article 250, to read in its entirety as follows:
"Article 250

1. If the reconciliation proposal is not proposed to the Clerk of the Court as intended in Article 213, then such plan must be proposed prior to the date of the session referred to in Article 215 or a later date, with due attention the provisions intended in Article 217 paragraph (4);
2. The reconciliation proposal must be made available at the office of the clerk of the court to be examined by any individual free of charge, and submitted to the Supervising Judge, and trustee and any experts, as soon as possible after the such proposal is available."

74. Amend the provisions of Article 252, to read in its entirety as follows:
"Article 252

1. If the reconciliation proposal has been submitted to the Clerk of the Court, The Court must determine:
   a. the last day on which the claims subject to the moratorium on debt repayment must be submitted to the trustee;
   b. the date and the time the reconciliation proposal put forward shall be discussed and decided upon in a deliberation meeting of the

judges.

2. There must be at least 14 (fourteen) days between the date mentioned in paragraph (1) letter a and letter b."

75. Amend the provisions of Article 253, to read in its entirety as follows:
"Article 253
1. The trustee must announce the determination of the period referred to in Article 252 paragraph (1) together with the inclusion of the reconciliation proposal, unless such matter has already been announced in accordance with Article 215;
2. The trustee must also inform all known creditors in writing by registered letter or via courier, and such announcement must mention the provisions in Article 254 paragraph (2);
3. Creditors may attend in person or be represented by a proxy based on a written Power of Attorney;
4. The trustee may require that the debtor provides him with a deposit in an amount stipulated by trustee to cover the costs of the such announcement and notification."

76. Amend the provisions of Article 254, to read in its entirety as follows:
"Article 254
1. Claims must be filed with the trustee by submitting a claim document or other written evidence that states the nature and amount of the claim accompanied by supporting evidence or copies of such evidence;
2. Claims not subject to a moratorium on debt repayment may not be filed with the trustee as referred to in paragraph (1), and if such claims have already been filed, then the moratorium shall also apply to such claims, and all privilege rights, retention rights, pledge, security rights or collateral right to other property shall be nullified;
3. The provision regarding the nullification of every special right, retention right, pledge, Security Right or collateral right to other property referred to in paragraph (2) shall not apply if such claim is withdrawn before voting begins;
4. In respect of claims submitted to the trustee as referred to in paragraph (1) creditors may request a receipt from the trustee."

77. Amend the provisions of Article 258, to read in its entirety as follows:

"Article 258

1. A claim with deferment conditions may be included in the list referred to in Article 256 for the prevailing value at the time the moratorium on debt repayments commences;
2. If the trustee and creditors do not reach agreement regarding the determination of the value of such claim, the claim must be accepted conditionally to be determined by the Supervising Judge."

78. Amend the provisions of Article 261, to read in its entirety as follows:
"Article 261

1. With due attention to the provisions regarding the period for the moratorium on debt repayment as referred to in Article 217 paragraph (4), at the request of the Trustee or by virtue of his office, the Supervising Judge may postpone the discussion and the vote concerning such reconciliation proposal;
2. In the event of a postponement of the discussion and vote as referred to in paragraph (1), the provisions of Article 253 shall apply."

79. Amend the provisions of Article 264, to read in its entirety as follows:
"Article 264

The Supervising Judge must determine whether and to what extent those creditors whose claims are contested may take part in the vote."

80. Amend the provisions of Article 265, to read in its entirety as. follows:
"Article 265

1. The reconciliation proposal may be accepted if it is approved by more than 1/2 (one half) of the unsecured creditors whose rights have been admitted or provisionally admitted who are present at the judges' deliberation meeting referred to in Article 252 including the creditors referred to in Article 264, who together represent no less than 2/3 (two thirds) of all the admitted or provisionally admitted claims of the unsecured creditors or their proxies who are present at such meeting;
2. The provisions in Article 142 and Article 143 shall also apply in the vote on the acceptance of the reconciliation proposal referred to in paragraph (1)."

81. Amend the provisions of Article 266, to read in its entirety as follows:

"Article 266

1. The minutes of the judges' deliberation meeting must state the contents of the reconciliation proposal, the names of creditors who are present and are entitled to vote, notes regarding, the votes cast by creditors, and the result of the vote and notes concerning any other incidents at the meeting;
2. The list of Creditors made by the trustee which has been supplemented or amended in the meeting must be signed by the Supervising Judge and Clerk of the Court and must be attached to the minutes of the meeting concerned;
3. A copy of the minutes of the meeting referred to in paragraph (1), must be made available at the office of the clerk of the court for 8 (eight) working days in order to be examined free of charge by the public."

82. Amend the provisions of Article 267, to read in its entirety as follows:

"Article 267

1. Debtors and creditors who voted in support of the reconciliation proposal may, within 8 (eight) working days of the date of the vote at the meeting, request that the Court correct the minutes of the meeting if, on the basis of the documents available, it appears that the Supervising Judge has mistakenly considered the reconciliation to have been rejected;
2. The request referred to in paragraph (1) must be filed with the Court.
3. If the Court corrects the minutes, the Court must, within the same decision, stipulate the date for the ratification of the reconciliation, which must be executed between 8 (eight) and 14 (fourteen) working days after the decision of the Court correcting such minutes is rendered;
4. The trustee must inform the creditors in writing of the Court decision referred to in paragraph (3), and such decision shall render the declaration of bankruptcy based on Article 274 paragraph (1) null and void by law."

83. Amend the provisions of Article 268, to read in its entirety as follows:

"Article 268

1. If the reconciliation proposal is accepted, the Supervising Judge must submit a written report to tile Court on the date stipulated for the

purposes of the ratification of the reconciliation, and on such stipulated date the trustee and creditors may submit the reasons which caused them to accept or reject such reconciliation proposal;
2. The provision in Article 148 paragraph (2) shall apply in respect of the implementation of the provision in paragraph (1);
3. The Court shall stipulate the date of the session for the ratification of the reconciliation which must take place no later than 14 (fourteen) days after the reconciliation proposal is approved by the creditors."

84. Amend the provisions of Article 269, to read in its entirety as follows:
"Article 269
1. The Court must render a decision concerning the ratification of the reconciliation together with the reasons therefor at the session referred to in Article 268 paragraph (3);
2. The Court may only refuse to undertake the ratification of the reconciliation if:
   a. the debtor's assets, including goods in respect of which there are retention rights, far exceed the amount agreed in the reconciliation;
   b. the implementation of the reconciliation is not sufficiently guaranteed;
   c. the reconciliation was reached as a result of fraud, or collusion with one or more creditors, or due to the use of other dishonest means, regardless of whether the Debtor or other parties cooperated to achieve such ends;
   d. the fees for services and costs expended by the experts and the trustee have not yet been paid, or no guarantee of their payment has been given.
3. If the Court refuses to ratify the reconciliation, the Court must, in the same decision, declare the debtor bankrupt, and such decision must be announced as referred to in Article 215;
4. The provisions referred to in Article 8, Article 9, Article 10 and Article 11 shall apply *mutatis mutandis* in respect of a rejection of the ratification of the reconciliation as referred to in paragraph (3)."

85. Delete the provisions of Article 272.

86. Amend the provisions of Article 273, to read in its entirety as follows:
"Article 273
The moratorium on debt repayments shall end immediately the decision on the ratification becomes final, and the trustee must announce such termination in a daily newspaper as referred to in Article 215."

87. Amend the provisions of Article 274 to read in its entirety as follows:
"Article 274
If the reconciliation proposal is rejected, the Supervising Judge must immediately notify the Court of such rejection by delivering, to the Court a copy of the reconciliation proposal, together with the minutes of the meeting referred to in Article 266, and in such matters, the Court must declare the debtor bankrupt no later than 1 (one) day after the Court receives the notification of the rejection of the Supervising Judge."

88. Amend the provisions of Article 275 to read in its entirety as follows:
"Article 275
If the Court has declared the Debtor bankrupt, the provisions concerning bankruptcy as intended in CHAPTER ONE shall apply in respect of such determination of bankruptcy, with the exception of Article 8, Article 9, Article 10 and Article 11."

89. Amend the provisions of Article 279 to read in its entirety as follows:
"Article 279
Petitions filed on the basis of Article 223, Article 240, Article 241, Article 244, Article 267, Article 269, Article 275 and Article 276 must be signed by a legal advisor licensed to practice who acts on the basis of a Power of Attorney, unless filed by the Trustee."

90. Add a new CHAPTER after CHAPTER TWO concerning the Moratorium on Debt Repayment, which shall become CHAPTER THREE and shall concern the Commercial Court, with its provisions being Article 280, Article 281, Article 282, Article 283, Article 284, Article 285, Article 286, Article 287, Article 288 and Article 289, which shall read as follows:
"CHAPTER THREE THE COMMERCIAL COURT
Article 280
1. A petition for the declaration of bankruptcy and a moratorium on debt

repayment as intended in CHAPTER ONE and CHAPTER TWO, shall be heard and decided by the Commercial Court, which is in the domain of the General Judiciary;
2. The Commercial Court referred to in paragraph (1), in addition to hearing and deciding on petitions for the declaration of bankruptcy and a moratorium on debt repayment, shall also have the authority to hear and decide other cases in the filed of commerce, the stipulation of which shall be made by a Government Regulation.

Article 281

1. For the first time under this Law, a Commercial Court shall be established at the Central Jakarta District Court;
2. The establishment of Commercial Courts other than those intended in paragraph (1), shall be implemented in stages by Presidential Decree, with due attention to needs and the readiness of the necessary resources;
3. Until the Commercial Courts referred to in paragraph (2) are established, all cases that come within the scope of the authority of such Commercial Courts shall be heard and decided by the Commercial Courts as intended in paragraph (1);
4. The establishment of the Commercial Court as intended in paragraph (1) shall be implemented no more than 120 (one hundred and twenty) days from such time as this Government Regulation in Lieu of Law comes into effect.

Article 282

1. The Commercial Court shall hear and decide upon cases at the first level by a council of judges;
2. In cases relating to other cases in the field of commerce, as referred to in Article 280 paragraph (2), the Chairman of the Supreme Court may stipulate the type and value of cases which shall be heard and decided by a single judge at the first level;
3. In performing his duties, the Commercial Court Judge shall be assisted by a Clerk of the Court or by a Substitute Clerk of the Court and a Bailiff.

Article 283

1. A Commercial Court Judge shall be appointed on the basis of a Decision of the Chairman of the Supreme Court;
2. The conditions for appointment as a Judge as intended in paragraph (1), shall be:
   a. having experience as a judge within the General Judiciary;
   b. having dedication and mastering the knowledge of the issues within the scope of authority of the Commercial Court;
   c. having authority, being honest, just and not guilty of any misconduct; and
   d. having successfully completed a special training program as a Commercial Court Judge.
3. With due attention to the conditions referred to in paragraph (2) letter b, letter c and letter d, by Presidential Decree at the proposal of the Chairman of the Supreme Court, an individual whose expertise is as an *ad hoc* judge may also be appointed to the Commercial Court at the first level.

Article 284

1. Unless otherwise stipulated by Law, the prevailing law of civil procedures shall also be applied in respect of the Commercial Court;
2. In respect of Commercial Court decisions at the first level that are related to petitions for a declaration of bankruptcy and a moratorium on debt repayment, appeals may only be filed with the Supreme Court.

Article 285

The hearing of a petition for appeal shall be conducted by a council of judges from the Supreme Court which is formed specifically to hear and decide cases within the scope of authority of the Commercial Court.

Article 286

1. In respect of decisions of the Commercial Court that have already become final, a judicial review may be filed with the Supreme Court;
2. A petition for judicial review may be made, if.
   a. there is important new written evidence which, if known at the previous session, would have resulted in a different ruling; or
   b. The Commercial Court concerned has committed a serious error in the application of the law.

Article 287

1. A petition for Judicial Review on the grounds intended in Article 286 paragraph (2) letter a shall be filed within a period of no more than 180 (one hundred and eighty) days from the date on which the decision in respect of which a judicial review is petitioned becomes final;
2. A petition for judicial review on the grounds intended in Article 286 paragraph (2) letter b shall be filed within a period of no more than 30 (thirty) days from the date the decision in respect of which a judicial review is petitioned becomes final;
3. A petition for judicial review shall be filed with the Clerk of the Court.
4. The Clerk of the Court shall register a petition for judicial review on the date on which the petition is filed, and furnish the applicant with a written receipt signed by the Clerk of the Court with the same date as the date of registration of the petition;
5. The Clerk of the Court shall deliver the petition for judicial review to the Clerk of the Supreme Court within a period of 1x24 hours from the date on which the petition is registered.

Article 288

1. The party filing the petition for judicial review must submit to the Clerk of the Court supporting evidence which forms the basis for filing such petition for, and to the other party, a copy of the petition for judicial review accompanied by the relevant supporting evidence, on the date the petition is registered as intended in Article 287 paragraph (4);
2. Without prejudice to the provision referred to in paragraph (1), the Clerk of the Court shall submit a copy of the petition for judicial review accompanied by the supporting evidence, to the other party within a period of no more than 2x24 hours from the date such petition is registered;
3. The other party may submit a response to the petition for judicial review that is filed, within a period of 10 (ten) days from the date such petition is registered.
4. The Clerk of the Court must submit such response to the Clerk of the Supreme Court within a period of no more than 12 (twelve) hours from the date the petition is registered.

Article 289

1. The Supreme Court shall immediately hear and render a decision on the petition for judicial review within no more than 30 (thirty) days counting from the date the petition is received by the Clerk of the Supreme Court;
2. The decision on the petition for judicial review must be pronounced in a public session;
3. Within no more than 32 (thirty-two) days from the date the petition is received by the Clerk of the Supreme Court, the Supreme Court must submit to the parties a copy of the decision on the judicial review which shall contain in full the legal considerations underlying such decision.

Article II

This Government Regulation In Lieu Of Law shall come into effect 120 (one hundred and twenty) days after the date of its enactment.

For public cognizance, it is ordered that this Government Regulation In Lieu Of Law shall be enacted by its placement in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta,
On the date of 22 April 1998
THE PRESIDENT OF THE REPUBLIC OF INDONESIA
SOEHARTO

Enacted in Jakarta
On the date of 22 April 1998
MINISTER OF STATE/STATE SECRETARY
THE REPUBLIC OF INDONESIA
SAADILLAH MURSJID