



BANKRUPTCY AND INSOLVENCY at a glance



The Options

Bankruptcy

Bankruptcy is a legal process designed to relieve honest but unfortunate debtors of their debts.

At the end of the process, the bankrupt is released from the obligation to repay the debts they had when the bankruptcy was filed (with some exceptions).

Proposal

A proposal is an offer to creditors to pay a percentage of what is owed over a specific period of time, or to extend the amount of time to pay off the debt, or a combination of both. Creditors vote to accept or reject the proposal.

There are two types of proposals:

- **Consumer proposals**—available to individuals who owe less than \$250,000, excluding mortgages; and
- **Division I proposals**—available to businesses and individuals (there is no limit regarding how much money is owed).

Once all the terms of the proposal are met, the debtor is legally released from the debts included in the proposal.

CCAA Proceeding

The *Companies' Creditors Arrangement Act* (CCAA) is a federal law that applies to insolvent companies owing more than \$5 million.

Under the CCAA, corporations ask the court for short-term protection while they prepare an offer to creditors for some form of payment (so they can restructure their businesses and financial affairs).

CCAA proceedings are carried out under court supervision.



The Main Stakeholders

Debtor (owes money)

A **debtor** is an insolvent person who is unable to pay their debts when they are due. A **bankrupt** is a debtor who has filed for bankruptcy.

Responsibilities

The debtor must:

- attend two financial counselling sessions; and
- assist the Licensed Insolvency Trustee (LIT) in administering the bankruptcy or proposal.

In addition, the bankrupt must:

- disclose all of their assets (property) and debts to the LIT;
- advise the LIT of any property disposed of in the past few years; and
- surrender all credit cards to the LIT.

Creditors (are owed money)

There are three main types of creditors: secured, unsecured and preferred.

Responsibilities

The role of creditors is to:

- participate in and vote at meetings of creditors;
- appoint inspectors;
- serve as an inspector; and
- inform the LIT of any irregularities on the part of the debtor.

Licensed Insolvency Trustee (LIT)

LIT are licensed by the OSB and are officers of the court.

Responsibilities

The LIT:

- administers proposals and bankruptcies;
- protects the rights of creditors;
- investigates the affairs of the debtor; and
- ensures the rights of the debtor are not abused.

Office of the Superintendent of Bankruptcy (OSB)

The OSB supervises the administration of bankruptcies and proposals under the *Bankruptcy and Insolvency Act* (BIA).

Responsibilities

The OSB:

- maintains records of proceedings under the BIA and the CCAA;
- records and investigates complaints;
- licenses LIT; and
- sets and enforces professional standards for the administration of estates.



The Legislation

Bankruptcy and Insolvency Act

The *Bankruptcy and Insolvency Act* is the federal legislation that governs bankruptcies and proposals in Canada

Companies' Creditors Arrangement Act

The *Companies' Creditors Arrangement Act* is a federal law that can help financially distressed businesses avoid bankruptcy.

Wage Earner Protection Program Act

Delivered by Service Canada, the Wage Earner Protection Program compensates eligible workers when their employer declares bankruptcy.