

99066002058003, 99066002058003

# Conducting consumer insolvency proceedings

Heruntergeladen am 05.07.2025

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

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

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Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021
Fachlich freigegeben durch	Ministry of Justice of Lower Saxony
Handlungsgrundlage	<a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000</a> <a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036400000</a>
Teaser	If you have an (imminent) insolvency and you are not self-employed, you can apply for consumer insolvency proceedings.
Volltext	<p>Many people have debts. Debts become a serious problem when they cannot be paid off with their own income or assets. This has serious consequences:</p> <p>Creditors receive little or no money at all. Debtors, on the other hand, are usually deprived of any income or assets that exceed their minimum subsistence level. They suffer an economic decline, live in modest circumstances and usually have no prospect of better times.</p> <p>If a household's financial situation comes to a head, it is important to approach creditors at an early stage (if necessary with the help of a third party, e.g. a debt counseling service) and work with them to find solutions, e.g. by agreeing instalment payments. This may make it possible to avert financial collapse. If this is no longer possible, consumer insolvency proceedings can help.</p> <p>These insolvency proceedings serve to realize your existing (seizure-free) assets in the event of your (impending) insolvency and to distribute the proceeds evenly to your creditors.</p> <p>By initiating consumer insolvency proceedings, you have the opportunity to apply for discharge of residual debt and (if all requirements are met) to be released from existing debts.</p>

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Consumer insolvency proceedings apply to all natural persons

- who are not (currently) self-employed or have not (previously) been self-employed,
- who have exercised a self-employed economic activity in the past, but whose financial circumstances are manageable and against whom there are no claims from employment relationships. Your financial circumstances are only considered manageable if you have fewer than 20 creditors at the time the application to open insolvency proceedings is filed. Claims from employment relationships are, in particular, claims from the tax authorities for wage tax and claims from social insurance institutions for contributions from your former employees.

For all other natural persons, so-called corporate insolvency proceedings are the right type of proceedings (read more about this under "Conducting standard insolvency proceedings for a (former) company". There is also the possibility of residual debt discharge.

The prerequisite for initiating consumer insolvency proceedings is the existence of the insolvency reason of actual or impending insolvency. A situation must have arisen in which you are currently or in the foreseeable future no longer in a position to meet your due payment obligations punctually and in full.

### Out-of-court settlement attempt

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

The attempt to reach an agreement must be based on an orderly plan. It is not sufficient to simply make a general inquiry to the creditors to see if they are prepared to reach an amicable agreement with you.

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You must submit a proposal to your creditors as to how you would like to settle your debts appropriately. As a rule, you can draw up a payment plan in which you specify fixed installments and precise payment dates to replace the payments originally owed and the dates applicable to them.

A serious attempt to reach an agreement also requires you to disclose your income and financial circumstances. The creditors must be able to assess on the basis of the information provided whether the proposed amendment to the payment obligations is necessary and whether it corresponds to your financial possibilities.

Application to open insolvency proceedings

If the out-of-court settlement fails despite your best efforts, you can apply to the insolvency court to open insolvency proceedings.

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

Suitable persons who may issue a certificate of the out-of-court settlement attempt include

- members of the legal advisory professions (lawyers or notaries) and
- In Lower Saxony, the Lower Saxony Implementation Act to the Insolvency Code (Nds. AGInsO) determines whether an office is "suitable" within the meaning of Section 305 (1) No. 1 InsO. In Lower Saxony, the Lower Saxony State Office for Social Affairs, Youth and Family, Team 3SL1, Domhof 1, 31134 Hildesheim, has been designated as the competent authority for the implementation of the Nds. AGInsO - in particular the recognition of suitable agencies and the settlement of remuneration with them.

Make sure at an early stage (preferably before you carry out an out-of-court debt settlement procedure)

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that the organization you have contacted has been recognized by the Düsseldorf district government. It also makes a lot of sense to clarify the processing modalities (Who should send the debt settlement plan? Is the content of the debt settlement plan sufficient?) with this organization so that you also receive the required certificate after this procedure.

[https://www.ms.niedersachsen.de/startseite/soziales\\_inklusion/soziales/verbraucherinsolvenz\\_und\\_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html](https://www.ms.niedersachsen.de/startseite/soziales_inklusion/soziales/verbraucherinsolvenz_und_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html)

[https://www.ms.niedersachsen.de/startseite/soziales\\_inklusion/soziales/verbraucherinsolvenz\\_und\\_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html](https://www.ms.niedersachsen.de/startseite/soziales_inklusion/soziales/verbraucherinsolvenz_und_schuldnerberatung/schuldnerberatung/wo-bekomme-ich-rat-13502.html)

## Erforderliche Unterlagen

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

## Voraussetzungen

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

## Kosten

A 0.5 fee pursuant to No. 2310 KV GKG is payable for the proceedings on the debtor's application for the opening of insolvency proceedings. The value of the

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insolvency estate at the time of the closure of the insolvency proceedings is decisive for the calculation of the specific amount incurred.

## Verfahrensablauf

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

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

- First, the insolvency court examines your submitted documents. The insolvency court will inform you in writing of any complaints. You must then resolve the complaint(s) within one month. If you do not do so in due time (the decisive factor is receipt by the insolvency court), your application will be deemed withdrawn.
- If the examination of the insolvency court has shown that your application is in order, it will decide in the specific individual case, taking into account all the circumstances, whether it makes sense to carry out a judicial debt settlement procedure.
- If the judicial debt settlement proceedings have also failed or if the insolvency court decides against conducting such proceedings, the insolvency court will open insolvency proceedings against your assets, provided that financing of the proceedings is likely to be covered by the future insolvency estate or secured on the basis of a deferral of procedural costs. In addition, the insolvency court appoints an insolvency administrator.
- The insolvency administrator has the task of realising your (seizure-free) assets. If the assets have been realised, the insolvency proceedings are terminated.
- If you have filed an application for discharge of residual debt: Following the cancellation of the insolvency proceedings, the good conduct period begins. In principle, this ends at the end of the 3-year (or in a new procedure 5-year) assignment period.

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

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Ansprechpunkt	<p>The insolvency court with local jurisdiction.</p> <p>The insolvency court in whose district the debtor has its general place of jurisdiction has exclusive local jurisdiction.</p> <p>If the debtor's center of independent economic activity is in a different location, the insolvency court in whose district this location is located has exclusive jurisdiction.</p> <p>You can find the competent court here.</p>
Zuständige Stelle	<p>The insolvency court with local jurisdiction.</p> <p>The insolvency court in whose district the debtor has its general place of jurisdiction has exclusive local jurisdiction.</p> <p>If the debtor's center of independent economic activity is in a different location, the insolvency court in whose district this location is located shall have exclusive jurisdiction.</p>
Formulare	
Ursprungsportal	<p>Durchführung eines Verbraucherinsolvenzverfahrens, Conducting consumer insolvency proceedings</p>