

SUMMARY

Key Words: bankruptcy of individuals, bankruptcy of the estate, debt restructuring

Subject matter: Features of insolvency (bankruptcy) of individuals

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The relevance of the research topic In the modern world, with a market economy, credit relations are developing faster and faster, and therefore, more and more citizens have a significant amount of monetary obligations, and often not just one lender. The "debt burden" of the population is becoming more and more widespread. at the end of 2018, the Federal state statistics service provided data on 48.2% of citizens in the Russian Federation who have enough money only for food and clothing, but these citizens cannot afford durable goods and furniture. In the context of the pandemic, a decrease in the welfare of citizens was recorded. There is no doubt that the consequence will be a significant deterioration in statistical data and an increase in the number of cases of bankruptcy of individuals.

At the same time, the bankruptcy of individuals is a fairly young institution for the Russian legal system, and is in the process of forming law enforcement practice.

The purpose of the work: investigation of the insolvency (bankruptcy) of a citizen as a consequence of the inability to satisfy creditors ' claims for monetary obligations and (or) fulfill the obligation to pay mandatory payments, as well as identification and analysis of problems in the application of legislation on bankruptcy of individuals, development of proposals for improving legislation in this area.

Objective: 1. Give the concept of insolvency (bankruptcy) of citizens and determine its social and economic significance; 2. Determine the criterion underlying the bankruptcy of citizens under the current legislation of the Russian Federation; determine the external and essential signs of bankruptcy of a citizen; 3. Consider what problems arise in the formation of the bankruptcy estate; 4. Analyze the features and current issues of bankruptcy of the hereditary mass; 5. Identify and analyze the problems of theory and practice that arise in the light of bankruptcy of citizens, offer options for improving the legislation on bankruptcy of citizens;

The theoretical and practical significance of the research The results of the research can be used for training in civil law disciplines, as well as for conducting scientific research in the designated area.

Results of the study:

1. the institution of insolvency (bankruptcy) of citizens is extremely important in the current economic situation in the country and allows citizens to exercise their constitutional right to a decent life. This institution allows us to streamline public relations in the field of consumer lending and is a big step forward in the development of domestic bankruptcy legislation.

2. the Basic purpose of the institution of insolvency (bankruptcy) of a citizen determines its essential social significance, and also forms the final rehabilitation character for such bankruptcy procedures as the restructuring of debts of a citizen and the sale of property of a citizen. At the same time, attention should be paid to the fact that the entire mechanism of insolvency (bankruptcy) of a citizen is based on an analysis of the behavior and property obligations of a debtor citizen in its pre-bankruptcy period to check the debtor's integrity (paragraphs 4 and 5 of art. 213.28 of the bankruptcy Law), which is the basis for applying the mechanism of exemption from obligations to a debtor citizen (paragraph 3 of article 213.28 of the bankruptcy Law). The verification of the citizen in his pre-bankruptcy period and the formation of debt restructuring plan as the basis of the relevant bankruptcy procedure, and the whole mechanism of realization of property, as well as the order of satisfying the creditors of the citizen have a common ultimate goal – helping conscientious citizen, because of a confluence of circumstances in a difficult financial situation.

3. the Concept of the institution of bankruptcy of citizens is based on key elements called signs of bankruptcy. The study of bankruptcy legislation allows us to conclude that the choice of criteria and their corresponding signs of bankruptcy was small, since for many decades various laws and doctrines considered as such:

a) non-payment or insolvency of a person;

b) the term of non-fulfillment of monetary claims;

C) a conflict between the debtor and its monetary creditors, as well as a confrontation between the creditors themselves due to the insufficiency of the property of the debtor's bankruptcy estate to meet their claims.

4. the insolvency (bankruptcy) of a citizen differs significantly from the legal structure of commercial bankruptcy and actually forms a new, special type of bankruptcy in the Russian Federation, which should be called consumer bankruptcy. Its legal nature is determined by: 1) the General strategy of the rehabilitation orientation of bankruptcy procedures of citizens; 2) the presence of special economic and economic goals for freeing citizens from financial dependence on their monetary creditors; 3) the social significance of mechanisms for freeing citizens from obligations; 4) special regulatory criteria for categories such as good faith, abuse of rights and fraud for the debtor citizen and the legal consequences of their detection; 5) special rules for the liability of spouses (former spouses) for monetary obligations of the debtor citizen.

5. an Heir who has accepted an inheritance with the encumbrance of the testator's debts cannot be a debtor for the obligations of a deceased person with the application of the General provisions of the bankruptcy Law in respect of individuals, since such an heir has no personal outstanding obligations to the testator's creditor, and the very fact of the debt arising is caused by entering into the inheritance. As bankruptcy of a deceased citizen, in fact, is the use of competitive procedures in respect of separate property, the application of the special rules of section 4 of Chapter X of the bankruptcy Act is primarily due to the possibility of differentiation of the property included in the estate and property of the heir, that is, the separation of the hereditary mass, through which the creditors of the testator can satisfy your requirements

Recommendations:

1. Add paragraph 2 to paragraph 8 of article 223.1 of the bankruptcy Law in the following wording: "The expenses for preservation of property included in the succession mass, but not included in the bankruptcy estate payable for the account of persons who took specified property, in case of failure to pay such costs, said property to be included in the bankruptcy estate and the implementation in the order established by the legislation on bankruptcy".

2. Provide for organizational measures aimed at facilitating the process of forming the hereditary mass of a citizen, in particular:

- in the legislation on information support of courts to provide for the creation of a single file of information on courts of General jurisdiction with the ability to search for processes based on the personal data of a particular citizen;

- in the law "on state registration of legal entities and individual entrepreneurs", this type of extract from the unified state register of LEGAL entities, as a citizen's participation in the capital of legal entities..