

PINDER BUECKERT & ASSOCIATES INC.

**CONSUMER PROPOSAL
UNDER THE BANKRUPTCY AND INSOLVENCY ACT**

WHAT IS A CONSUMER PROPOSAL?

A consumer proposal is a formal offer made by a debtor to his or her creditors to compromise the amount of debt owing and/or to modify payments-interest free. For example, you may propose that you will pay a lower amount each month, but over a longer period of time. Or you may propose that your creditors accept being paid a percentage of what you owe. This is intended generally for unsecured creditors who do not have any security interest over your assets. It also includes government creditors such as the Canada Revenue Agency, Canada Student Loans, etc..

Division II of Part III of the Bankruptcy and Insolvency Act permits an insolvent natural person to file a consumer proposal with an Administrator to compromise his or her debts. An Administrator is a Trustee appointed by the Superintendent to administer consumer proposals.

A consumer debtor is defined as an insolvent natural person, whose aggregate debts do not exceed \$250,000.00, excluding the debts secured by the debtor's principal residence. The Proposal cannot extend for more than five years, certain debts must be dealt with in priority and time, and there is a Stay of Proceedings against all creditors. In filing a proposal, the debtor must first find an Administrator (Trustee) who will support the proposal. The fees allowable by the *Act* are \$750.00 upon filing of the proposal, \$750.00 upon acceptance of the proposal by the Courts, and 20% of the monies distributed to the creditors, payable on the distribution of the monies (by dividend). These are paid from the proposal proceeds in priority to the creditors distribution.

If a consumer proposal is not accepted by the creditors there is no automatic bankruptcy.

1. In filing the proposal, the documents that are required to be sent to the Official Receiver include a Statement of Financial Affairs, Income information, terms of the proposal being offered and list of creditors

Within ten days from filing the proposal, the Administrator must file his report to the Official Receiver. This report must include the following:

2. A report as to his investigation
3. An opinion as to whether the proposal is fair and reasonable.
4. A condensed statement of the debtor's assets, liabilities, income and expenses.

Within ten days after the proposal is filed with the Official Receiver, notice must be sent to all the creditors. Creditors will be given forty-five days to accept or reject the proposal. If the majority of creditors (by dollar value) accept the proposal, then it is accepted and binding on all unsecured creditors. There will be a fifteen day grace period for any requests for Court review of the Proposal. If no requests are received, Court approval will deemed to have occurred.

However if 25% of the voting creditors request a meeting (to be held within 21 days), then the proposal may be reviewed further and there may be requests to amend the proposal terms or negotiate the amount offered.

If a proposal (once accepted) is in default at any time in excess of three payments, the proposal will be deemed annulled. However there are provisions allowing for the revival of the proposal, subject to creditor or court approval. Once the proposal is completed a Certificate of Full Performance will be issued signifying completion of the proposal.