

Банкротство. Процедура аукциона по банкротству

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Аннотация

В данной статье рассмотрены понятие банкротства, а также его процедуры. В частности, проанализирована новая для Российского рынка процедура аукционов по банкротству. В том числе были взяты во внимание этапы электронных торгов и аукционов. Выбрано несколько лучших трейдинговых площадок.

Ключевые слова: банкротство, этапы банкротства, аукцион, электронные торги.

Bankruptcy. The procedure of the auction for bankruptcy

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Annotation

In this article, we consider the concept of bankruptcy, as well as its procedures. In particular, a new procedure for bankruptcy auctions for the Russian market was analyzed. In particular, the stages of electronic auctions and auctions were taken into account. There are top 5 best trading platforms.

Keywords: bankruptcy, stages of bankruptcy, auction, electronic bidding.

One of the most prominent features of the modern economy of any country is its cyclical nature. This characteristic is mentioned in any macroeconomic textbook, and certainly can be called one of the defining characteristics of any existing market at the given moment.

The cyclical nature of the economy gives both push to the development and improvement of the financial and economic situation in the country and in the world, and immerses the economy in times of recession. This trend is valid not only at the macroeconomic level, but also at the level of individual market entities: banks, commercial organizations, individual entrepreneurs and so on. Moreover, at a lower and less developed level, these downturns and market rises are felt most strongly and can lead either to a difficult financial situation in the company or to its complete bankruptcy.

The relevance of the topic of this article is determined by the high socio-economic significance of the institution of bankruptcy in Russia.

The issue of insolvency (bankruptcy) is one of the most crucial for the economy of any country. Negative phenomena such as the crisis of non-payments, the structural crisis, lack of investments, the imbalance of the expenditure and revenue parts of the state budget of the country, the contradiction between laws and other normative acts, etc. are observed. These characteristics determined the special predisposition of many Russian enterprises to the crisis and pre-bankrupt phenomena.

The official definition [1] is given in Article 2 of Federal Law No. 127-FZ "On Insolvency (Bankruptcy)" of October 26, 2002, which states that bankruptcy is an inability of the debtor to fully satisfy the creditors' claims for monetary obligations, the payment of the holidays Benefits and (or) the payment of labor of persons who work or worked under an employment contract, and (or) fulfill the obligation to pay mandatory payments.

The bankruptcy procedure begins with an application to declare the debtor bankrupt. According to the law there are five procedures, which are provided by the law on insolvency (bankruptcy):

1. Receivership - proceeding applied in a bankruptcy case to the debtor for the purpose of ensuring the preservation of its/his/her property, analyzing the financial state of the debtor, drawing up a list of creditors' claims and holding the first meeting of creditors.

2. Financial rehabilitation - a procedure applied in a bankruptcy case to the debtor for the purpose of restoring its/his/her solvency and repaying debts in accordance with a debt repayment schedule.

3. External administration - a proceeding applied in a bankruptcy case to the debtor for the purpose of restoring its/his/her solvency with the transfer of authority to the receiver to manage the debtor.

4. Winding up - if the debt to creditors was not eliminated within the framework of the procedures described above, the final phase of the bankruptcy procedure – winding up - is introduced.

5. Amicable agreement - the purpose of which is to terminate the bankruptcy case and reach an agreement between the debtor and creditors.

Trades and auctions for bankruptcy today is one of the most popular topics related to bankruptcy procedures and they gain popularity every day.

In the Russian Federation auctions or so-called judicial auctions for bankruptcy are conducted in accordance with the instructions of the Federal Law "On Insolvency". It notes: "All types of property that are listed on the balance sheet of a legal entity, including real estate, are being sold." The current legislation allows any client to buy out from the bankrupt enterprise any object taking into account all the pros and cons of the transaction.

The auction for bankruptcy is a system of bidding, which is conducted electronically. Auctions are used to quickly realize the property of a defaulter, which allows at least partially repay its obligations to creditors.

The functions of evaluation and subsequent sale of property belonging to the debtor are performed by the winding-up (it is also called a qualified receiver) receiver. Its main tasks are to organize tenders and subsequently in the course of their implementation to realize the assets owned by the debtor. It is the right of anyone who wishes to participate in the auctions on which the sale of the debtor's assets is carried out.

The conduct of auctions is regulated by the relevant norms of the Federal Law. The application for the sale of securities is issued several times during two months, which is counted from the date of the bailiff's resolution.

In the case of an auction, the winner is the participant who offers the highest price. The winner of the competition in accordance with paragraph 4 of Article 447 of the Civil Code is a participant who guarantees to fulfill its conditions.

At auctions related to the bankruptcy procedure, a large list of objects is sold, from which one can choose any. The most common and significant are:

- shares of legal entities and individuals;
- industrial enterprises, factories, companies;
- trademarks of any companies;
- eligibility requirements;
- material assets of the bankrupt;
- land plots intended for individual construction, agriculture;
- commercial and residential real estate, production facilities and buildings;
- production equipment.

Table 1. Normative acts on the basis of which tenders are held are reflected in the table below

Normative act	Number and article	What regulates
FZ "On insolvency (bankruptcy)"	FZ-127 Articles 28, 110-111	Basic norms for conducting auctions for the sale of property of debtors
Order of the Ministry of Economic Development	No. 54, issued on February 15, 2010	The procedure for selling property through open auctions
Rules of electronic trading platform	-	Features, as well as the conditions for holding trades on a separate site

The procedure for conducting tenders for bankruptcy is strictly regulated. It is possible to distinguish 3 stages, which form the basis of trades:

Stage 1. Primary tenders.

This is the initial stage of bidding. Participants have the right to bid on increasing the value of the sold object. In this case, the step size is determined in advance by the conditions of the auction. It is important to know that every next step the system takes in half an hour after the previous one.

Stage 2. Repeated tenders.

If for any reason the primary bidding is declared invalid, repeated ones are held. In this case, the initial cost is set to 10% lower.

Stage 3. Public tenders.

If in the first two stages the auction is declared invalid, public auction is held. Their main feature is the price reduction through predefined periods of time.

Participants of such trades have the opportunity to purchase property at a very low cost. The maximum reduction can reach 99%. However, here it is important to have a deal before competitors.

It is possible to highlight the main stages of electronic trading and the requirements of auctions:

Step 1. Obtaining an Electronic Signature

Electronic signature is a way of confirming the ownership of directed information to its owner. Without an electronic signature, it is impossible to access the electronic trading platform in order to participate in trades on property of bankrupt and debtors.

The main functions of Electronic Signature are:

- protection from counterfeiting, as well as falsification of various documents;
- proof of authorship of the documentation, as well as its belonging to a specific person;

- transfer of documents over secure communication channels;
- ensuring the possibility of bidding in the course of bidding;
- conclusion of contracts on the basis of bidding.

When deciding to obtain an electronic signature it is important to analyze how much you need it. Traditionally, the ES operates only 1 year, after which the extension will be paid. In order not to waste money, it is often more expedient to first choose an object that is willing to buy, and only then make a signature.

Step 2. Accreditation to Electronic Trading Platform

The next stage is accreditation on the electronic trading platform. To do this, you must necessarily have EP. Accreditation traditionally takes from three to five working days. There is no need to go through this procedure at all sites. Enough of the one on which the auction will be held.

Step 3. Selection and analysis of the lot

Step 4. Registration of the application for participation in the auction

At the stage of registration of the application for participation in the bidding process, it is required to attach a document confirming the payment of the deposit provided for by the terms of the bidding. Therefore, it should be paid before the final submission of the application.

Step 5. Payment of deposit

An important step, without which participation in the bidding will be impossible, is the deposit. Its size is determined in the documentation for the auction. Most often, the amount of the deposit is determined at the level of 5% of the value of the sold object.

Step 6. Submitting an application

The time of application should be determined for each auction separately. In some trades, the winner is the first to send it. In other cases, it is important to have time to apply before a certain point.

Step 7. Electronic Auction

Depending on the type of auction, the bidding procedure is carried out. If the auctions are held on the principle of a closed auction, at a certain moment all bids are opened, the winner is the one who submitted the best price.

If an open auction is held, the participant must go to the private office, which is registered on the electronic platform, in the day and hour specified by the bidding conditions.

Further, in accordance with the terms of the auction, each participant can submit price proposals. In this case, you should take into account the bidding step, which is specified in the auction conditions. Most often it is from 0.5 to 5 percent of the initial value of the property being sold.

In addition to the auction step, the trading period determines the time period during which you can put forward your offer. If more than the established period has passed since the last of them, the auctions are completed.

Stage 8. Results of trades

When the auction is completed, it remains to wait for the results of the auction. First, the bidding organizer forms a protocol containing information about how they passed. This is done about half an hour after the end of the auction.

Next, within 3 working days, a protocol is drawn up summarizing the results. It contains information about who is the winner of the bidding.

Stage 9. End of the auction

For participants who did not become winners of trading, they end quite simply. It is enough to wait for the return of the pledge.

Winners of the auction are required to conclude a contract of sale. To this end, the bidding organizer sends a specific form through the site. It should be filled in and returned to the site first through the private office, by signing it with an electronic key, then the auction winner returns the signed contract to the bidding organizer.

Stage 10. Full payment and entry into rights

When the contract is signed, the winner needs to pay the remainder of the payment for the object of purchase. When absolutely all conditions are fulfilled, the winner of the auction becomes a full owner of the property. Further, he can dispose of the acquisition at his own discretion.

Thus, participation in trading implies the passage of certain stages of the procedure. Bidding on bankruptcy is conducted on various electronic platforms. One can single out a number of the most successful sites that sell assets of bankrupt.

All the sites on which the procedure for selling bankrupt assets at a reduced cost is divided into 3 types:

1. Trading platforms.

Such sites specialize directly in the organization and conduct of online auctions.

2. Official portals.

Here is published the full data on the auction. This is done in accordance with Russian law. The most famous examples of such sites are the Fedresses, as well as the Kommersant newspaper (Saturday issue).

3. Aggregators of trades in bankruptcy.

The main purpose of these portals is to collect up-to-date information about the conducted tenders from a large number of Internet resources.

To sum up, bankruptcy has become a fact in Russia. On the one hand, bankruptcy is the collapse, the death of the enterprise. But on the other hand, it is a push to change for the better, the possibility of a revival in the light of past mistakes.

If there is a negative trend in the company's activities, such as a decrease in production or profit, it is necessary during the time to react and take measures to eliminate the problems. In the event that the changes do not occur, and the overall decline continues, then there is a high probability of a financial crisis in the enterprise.

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