

**TITLE XII  
CONCURRENCE AND PREFERENCE OF CREDITS**

**CHAPTER 1  
General Provisions**

**Article 2236.** The debtor is liable with all his property, present and future, for the fulfillment of his obligations, subject to the exemptions provided by law. (1911a)

**Article 2238.** So long as the conjugal partnership or absolute community subsists, its property shall not be among the assets to be taken possession of by the assignee for the payment of the insolvent debtor's obligations, except insofar as the latter have redounded to the benefit of the family. If it is the husband who is insolvent, the administration of the conjugal partnership or absolute community may, by order of the court, be transferred to the wife or to a third person other than the assignee. (n)

**Article 2239.** If there is property, other than that mentioned in the preceding article, owned by two or more persons, one of whom is the insolvent debtor, his undivided share or interest therein shall be among the assets to be taken possession of by the assignee for the payment of the insolvent debtor's obligations. (n)

**Article 2240.** Property held by the insolvent debtor as a trustee of an express or implied trust, shall be excluded from the insolvency proceedings. (n)

**REPUBLIC ACT No. 10142**

**AN ACT PROVIDING FOR THE REHABILITATION OR LIQUIDATION OF FINANCIALLY  
DISTRESSED ENTERPRISES AND INDIVIDUALS**

**Section 2. Declaration of Policy.** - It is the policy of the State to encourage debtors, both juridical and natural persons, and their creditors to collectively and realistically resolve and adjust competing claims and property rights. In furtherance thereof, the State shall ensure a timely, fair, transparent, effective and efficient rehabilitation or liquidation of debtors. The rehabilitation or liquidation shall be made with a view to ensure or maintain certainty and predictability in commercial affairs, preserve and maximize the value of the assets of these debtors, recognize creditor rights and respect priority of claims, and ensure equitable treatment of creditors who are similarly situated. When rehabilitation is not feasible, it is in the interest of the State to facilities a speedy and orderly liquidation of these debtor's assets and the settlement of their obligations.

**Section 29. Qualifications of a Rehabilitation Receiver.** - The rehabilitation receiver shall have the following minimum qualifications:

- (a) A citizen of the Philippines or a resident of the Philippines in the six (6) months immediately preceding his nomination;
- (b) Of good moral character and with acknowledged integrity, impartiality and independence;

(c) Has the requisite knowledge of insolvency and other relevant commercial laws, rules and procedures, as well as the relevant training and/or experience that may be necessary to enable him to properly discharge the duties and obligations of a rehabilitation receiver; and

(d) Has no conflict of interest: Provided, That such conflict of interest may be waived, expressly or impliedly, by a party who may be prejudiced thereby.

Other qualifications and disqualification's of the rehabilitation receiver shall be set forth in procedural rules, taking into consideration the nature of the business of the debtor and the need to protect the interest of all stakeholders concerned.

## **CHAPTER V LIQUIDATION OF INSOLVENT JURIDICAL DEBTORS**

**Section 90. *Voluntary Liquidation.*** - An insolvent debtor may apply for liquidation by filing a petition for liquidation with the court. The petition shall be verified, shall establish the insolvency of the debtor and shall contain, whether as an attachment or as part of the body of the petition;

(a) a schedule of the debtor's debts and liabilities including a list of creditors with their addresses, amounts of claims and collaterals, or securities, if any;

(b) an inventory of all its assets including receivables and claims against third parties; and

(c) the names of at least three (3) nominees to the position of liquidator.

At any time during the pendency of court-supervised or pre-negotiated rehabilitation proceedings, the debtor may also initiate liquidation proceedings by filing a motion in the same court where the rehabilitation proceedings are pending to convert the rehabilitation proceedings into liquidation proceedings. The motion shall be verified, shall contain or set forth the same matters required in the preceding paragraph, and state that the debtor is seeking immediate dissolution and termination of its corporate existence.

If the petition or the motion, as the case may be, is sufficient in form and substance, the court shall issue a Liquidation Order mentioned in Section 112 hereof.

**Section 91. *Involuntary Liquidation.*** - Three (3) or more creditors the aggregate of whose claims is at least either One million pesos (Php1,000,000.00) or at least twenty-five percent (25%) of the subscribed capital stock or partner's contributions of the debtor, whichever is higher, may apply for and seek the liquidation of an insolvent debtor by filing a petition for liquidation of the debtor with the court. The petition shall show that:

(a) there is no genuine issue of fact or law on the claims/s of the petitioner/s, and that the due and demandable payments thereon have not been made for at least one hundred eighty (180) days or that the debtor has failed generally to meet its liabilities as they fall due; and

(b) there is no substantial likelihood that the debtor may be rehabilitated.

At any time during the pendency of or after a rehabilitation court-supervised or pre-negotiated rehabilitation proceedings, three (3) or more creditors whose claims is at least either One million pesos (Php1,000,000.00) or at least twenty-five percent (25%) of the subscribed capital or partner's contributions of the debtor, whichever is higher, may also initiate liquidation proceedings by filing a

motion in the same court where the rehabilitation proceedings are pending to convert the rehabilitation proceedings into liquidation proceedings. The motion shall be verified, shall contain or set forth the same matters required in the preceding paragraph, and state that the movants are seeking the immediate liquidation of the debtor.

If the petition or motion is sufficient in form and substance, the court shall issue an Order:

(1) directing the publication of the petition or motion in a newspaper of general circulation once a week for two (2) consecutive weeks; and

(2) directing the debtor and all creditors who are not the petitioners to file their comment on the petition or motion within fifteen (15) days from the date of last publication.

If, after considering the comments filed, the court determines that the petition or motion is meritorious, it shall issue the Liquidation Order mentioned in Section 112 hereof.

**Section 92. *Conversion by the Court into Liquidation Proceedings.*** - During the pendency of court-supervised or pre-negotiated rehabilitation proceedings, the court may order the conversion of rehabilitation proceedings to liquidation proceedings pursuant to (a) Section 25(c) of this Act; or (b) Section 72 of this Act; or (c) Section 75 of this Act; or (d) Section 90 of this Act; or at any other time upon the recommendation of the rehabilitation receiver that the rehabilitation of the debtor is not feasible. Thereupon, the court shall issue the Liquidation Order mentioned in Section 112 hereof.

**Section 93. *Powers of the Securities and Exchange Commission (SEC).*** - The provisions of this chapter shall not affect the regulatory powers of the SEC under Section 6 of Presidential Decree No. 902-A, as amended, with respect to any dissolution and liquidation proceeding initiated and heard before it.

## **(B) Voluntary Liquidation.**

**Section 103. *Application.*** - An individual debtor whose properties are not sufficient to cover his liabilities, and owing debts exceeding Five hundred thousand pesos (Php500,000.00), may apply to be discharged from his debts and liabilities by filing a verified petition with the court of the province or city in which he has resided for six (6) months prior to the filing of such petition. He shall attach to his petition a schedule of debts and liabilities and an inventory of assets. The filing of such petition shall be an act of insolvency.

**Section 104. *Liquidation Order.*** - If the court finds the petition sufficient in form and substance it shall, within five (5) working days issue the Liquidation Order mentioned in Section 112 hereof.

## **(C) In voluntary Liquidation.**

**Section 105. *Petition; Acts of Insolvency.*** - Any creditor or group of creditors with a claim of, or with claims aggregating at least Five hundred thousand pesos (Php500, 000.00) may file a verified petition for liquidation with the court of the province or city in which the individual debtor resides.

The following shall be considered acts of insolvency, and the petition for liquidation shall set forth or allege at least one of such acts:

(a) That such person is about to depart or has departed from the Republic of the Philippines, with intent to defraud his creditors;

- (b) That being absent from the Republic of the Philippines, with intent to defraud his creditors, he remains absent;
- (c) That he conceals himself to avoid the service of legal process for the purpose of hindering or delaying the liquidation or of defrauding his creditors;
- (d) That he conceals, or is removing, any of his property to avoid its being attached or taken on legal process;
- (e) That he has suffered his property to remain under attachment or legal process for three (3) days for the purpose of hindering or delaying the liquidation or of defrauding his creditors;
- (f) That he has confessed or offered to allow judgment in favor of any creditor or claimant for the purpose of hindering or delaying the liquidation or of defrauding any creditors or claimant;
- (g) That he has willfully suffered judgment to be taken against him by default for the purpose of hindering or delaying the liquidation or of defrauding his creditors;
- (h) That he has suffered or procured his property to be taken on legal process with intent to give a preference to one or more of his creditors and thereby hinder or delay the liquidation or defraud any one of his creditors;
- (i) That he has made any assignment, gift, sale, conveyance or transfer of his estate, property, rights or credits with intent to hinder or delay the liquidation or defraud his creditors;
- (j) That he has, in contemplation of insolvency, made any payment, gift, grant, sale, conveyance or transfer of his estate, property, rights or credits;
- (k) That being a merchant or tradesman, he has generally defaulted in the payment of his current obligations for a period of thirty (30) days;
- (l) That for a period of thirty (30) days, he has failed, after demand, to pay any moneys deposited with him or received by him in a fiduciary; and
- (m) That an execution having been issued against him on final judgment for money, he shall have been found to be without sufficient property subject to execution to satisfy the judgment.

The petitioning creditor/s shall post a bond in such as the court shall direct, conditioned that if the petition for liquidation is dismissed by the court, or withdrawn by the petitioner, or if the debtor shall not be declared an insolvent the petitioners will pay to the debtor all costs, expenses, damages occasioned by the proceedings and attorney's fees.

**Section 106. Order to Individual Debtor to Show Cause.** - Upon the filing of such creditors' petition, the court shall issue an Order requiring the individual debtor to show cause, at a time and place to be fixed by the said court, why he should not be adjudged an insolvent. Upon good cause shown, the court may issue an Order forbidding the individual debtor from making payments of any of his debts, and transferring any property belonging to him. However, nothing contained herein shall affect or impair the rights of a secured creditor to enforce his lien in accordance with its terms.

**Section 107. *Default.*** - If the individual debtor shall default or if, after trial, the issues are found in favor of the petitioning creditors the court shall issue the Liquidation Order mentioned in Section 112 hereof.

**Section 108. *Absent Individual Debtor.*** - In all cases where the individual debtor resides out of the Republic of the Philippines; or has departed therefrom; or cannot, after due diligence, be found therein; or conceals himself to avoid service of the Order to show cause, or any other preliminary process or orders in the matter, then the petitioning creditors, upon submitting the affidavits requisite to procedure an Order of publication, and presenting a bond in double the amount of the aggregate sum of their claims against the individual debtor, shall be entitled to an Order of the court directing the sheriff of the province or city in which the matter is pending to take into his custody a sufficient amount of property of the individual debtor to satisfy the demands of the petitioning creditors and the costs of the proceedings. Upon receiving such Order of the court to take into custody of the property of the individual debtor, it shall be the duty of the sheriff to take possession of the property and effects of the individual debtor, not exempt from execution, to an extent sufficient to cover the amount provided for and to prepare within three (3) days from the time of taking such possession, a complete inventory of all the property so taken, and to return it to the court as soon as completed. The time for taking the inventory and making return thereof may be extended for good cause shown to the court. The sheriff shall also prepare a schedule of the names and residences of the creditors, and the amount due each, from the books of the debtor, or from such other papers or data of the individual debtor available as may come to his possession, and shall file such schedule or list of creditors and inventory with the clerk of court.

**Section 109. *All Property Taken to be Held for All Creditors; Appeal Bonds; Exemptions to Sureties.*** - In all cases where property is taken into custody by the sheriff, if it does not embrace all the property and effects of the debtor not exempt from execution, any other creditor or creditors of the individual debtor, upon giving bond to be approved by the court in double the amount of their claims, singly or jointly, shall be entitled to similar orders and to like action, by the sheriff; until all claims be provided for, if there be sufficient property or effects. All property taken into custody by the sheriff by virtue of the giving of any such bonds shall be held by him for the benefit of all creditors of the individual debtor whose claims shall be duly proved as provided in this Act. The bonds provided for in this section and the preceding section to procure the order for custody of the property and effects of the individual debtor shall be conditioned that if, upon final hearing of the petition in insolvency, the court shall find in favor of the petitioners, such bonds and all of them shall be void; if the decision be in favor of the individual debtor, the proceedings shall be dismissed, and the individual debtor, his heirs, administrators, executors or assigns shall be entitled to recover such sum of money as shall be sufficient to cover the damages sustained by him, not to exceed the amount of the respective bonds. Such damages shall be fixed and allowed by the court. If either the petitioners or the debtor shall appeal from the decision of the court, upon final hearing of the petition, the appellant shall be required to give bond to the successful party in a sum double the amount of the value of the property in controversy, and for the costs of the proceedings.

Any person interested in the estate may take exception to the sufficiency of the sureties on such bond or bonds. When excepted to the petitioner's sureties, upon notice to the person excepting of not less than two (2) nor more than five (5) days, must justify as to their sufficiency; and upon failure to justify, or of others in their place fail to justify at the time and place appointed the judge shall issue an Order vacating the order to take the property of the individual debtor into the custody of the sheriff, or denying the appeal, as the case may be.

**Section 110. *Sale Under Execution.*** - If, in any case, proper affidavits and bonds are presented to the court or a judge thereof, asking for and obtaining an Order of publication and an Order for the custody of the property of the individual debtor and thereafter the petitioners shall make it appear satisfactorily to the court or a judge thereof that the interest of the parties to the proceedings will be

subscribed by a sale thereof, the court may order such property to be sold in the same manner as property is sold under execution, the proceeds to be deposited in the court to abide by the result of the proceedings.

## **CHAPTER VII PROVISIONS COMMON TO LIQUIDATION IN INSOLVENCY OF INDIVIDUAL AND JURIDICAL DEBTORS**

**Section 111. *Use of Term Debtor.*** - For purposes of this chapter, the term debtor shall include both individual debtor as defined in Section 4(o) and debtor as defined in Section 4(k) of this Act.

### **(A) The Liquidation Order.**

**Section 112. *Liquidation Order.*** - The Liquidation Order shall:

- (a) declare the debtor insolvent;
- (b) order the liquidation of the debtor and, in the case of a juridical debtor, declare it as dissolved;
- (c) order the sheriff to take possession and control of all the property of the debtor, except those that may be exempt from execution;
- (d) order the publication of the petition or motion in a newspaper of general circulation once a week for two (2) consecutive weeks;
- (e) direct payments of any claims and conveyance of any property due the debtor to the liquidator;
- (f) prohibit payments by the debtor and the transfer of any property by the debtor;
- (g) direct all creditors to file their claims with the liquidator within the period set by the rules of procedure;
- (h) authorize the payment of administrative expenses as they become due;
- (i) state that the debtor and creditors who are not petitioner/s may submit the names of other nominees to the position of liquidator; and
- (j) set the case for hearing for the election and appointment of the liquidator, which date shall not be less than thirty (30) days nor more than forty-five (45) days from the date of the last publication.

**Section 113. *Effects of the Liquidation Order.*** - Upon the issuance of the Liquidation Order:

- (a) the juridical debtor shall be deemed dissolved and its corporate or juridical existence terminated;

(b) legal title to and control of all the assets of the debtor, except those that may be exempt from execution, shall be deemed vested in the liquidator or, pending his election or appointment, with the court;

(c) all contracts of the debtor shall be deemed terminated and/or breached, unless the liquidator, within ninety (90) days from the date of his assumption of office, declares otherwise and the contracting party agrees;

(d) no separate action for the collection of an unsecured claim shall be allowed. Such actions already pending will be transferred to the Liquidator for him to accept and settle or contest. If the liquidator contests or disputes the claim, the court shall allow, hear and resolve such contest except when the case is already on appeal. In such a case, the suit may proceed to judgment, and any final and executor judgment therein for a claim against the debtor shall be filed and allowed in court; and

(e) no foreclosure proceeding shall be allowed for a period of one hundred eighty (180) days.

**Section 114. *Rights of Secured Creditors.*** - The Liquidation Order shall not affect the right of a secured creditor to enforce his lien in accordance with the applicable contract or law. A secured creditor may:

(a) waive his right under the security or lien, prove his claim in the liquidation proceedings and share in the distribution of the assets of the debtor; or

(b) maintain his rights under the security or lien:

If the secured creditor maintains his rights under the security or lien:

(1) the value of the property may be fixed in a manner agreed upon by the creditor and the liquidator. When the value of the property is less than the claim it secures, the liquidator may convey the property to the secured creditor and the latter will be admitted in the liquidation proceedings as a creditor for the balance. If its value exceeds the claim secured, the liquidator may convey the property to the creditor and waive the debtor's right of redemption upon receiving the excess from the creditor;

(2) the liquidator may sell the property and satisfy the secured creditor's entire claim from the proceeds of the sale; or

(3) the secure creditor may enforce the lien or foreclose on the property pursuant to applicable laws.

## **(B) The Liquidator.**

**Section 115. *Election of Liquidator.*** - Only creditors who have filed their claims within the period set by the court, and whose claims are not barred by the statute of limitations, will be allowed to vote in the election of the liquidator. A secured creditor will not be allowed to vote, unless: (a) he waives his security or lien; or (b) has the value of the property subject of his security or lien fixed by agreement with the liquidator, and is admitted for the balance of his claim.

The creditors entitled to vote will elect the liquidator in open court. The nominee receiving the highest number of votes cast in terms of amount of claims, and who is qualified pursuant to Section 118 hereof, shall be appointed as the liquidator.

**Section 116. *Court-Appointed Liquidator.*** - The court may appoint the liquidator if:

- (a) on the date set for the election of the liquidator, the creditors do not attend;
- (b) the creditors who attend, fail or refuse to elect a liquidator;
- (c) after being elected, the liquidator fails to qualify; or
- (d) a vacancy occurs for any reason whatsoever, In any of the cases provided herein, the court may instead set another hearing of the election of the liquidator.

*Provided further,* That nothing in this section shall be construed to prevent a rehabilitation receiver, who was administering the debtor prior to the commencement of the liquidation, from being appointed as a liquidator.

**Section 117. *Oath and Bond of the Liquidator.*** -Prior to entering upon his powers, duties and responsibilities, the liquidator shall take an oath and file a bond, In such amount to be fixed by the court, conditioned upon the proper and faithful discharge of his powers, duties and responsibilities.

**Section 118. *Qualifications of the Liquidator.*** - The liquidator shall have the qualifications enumerated in Section 29 hereof. He may be removed at any time by the court for cause, either *motu proprio* or upon motion of any creditor entitled to vote for the election of the liquidator.

**Section 119. *Powers, Duties and Responsibilities of the Liquidator.*** - The liquidator shall be deemed an officer of the court with the principal duty of preserving and maximizing the value and recovering the assets of the debtor, with the end of liquidating them and discharging to the extent possible all the claims against the debtor. The powers, duties and responsibilities of the liquidator shall include, but not limited to:

- (a) to sue and recover all the assets, debts and claims, belonging or due to the debtor;
- (b) to take possession of all the property of the debtor except property exempt by law from execution;
- (c) to sell, with the approval of the court, any property of the debtor which has come into his possession or control;
- (d) to redeem all mortgages and pledges, and so satisfy any judgement which may be an encumbrance on any property sold by him;
- (e) to settle all accounts between the debtor and his creditors, subject to the approval of the court;
- (f) to recover any property or its value, fraudulently conveyed by the debtor;

(g) to recommend to the court the creation of a creditors' committee which will assist him in the discharge of the functions and which shall have powers as the court deems just, reasonable and necessary; and

(h) upon approval of the court, to engage such professional as may be necessary and reasonable to assist him in the discharge of his duties.

In addition to the rights and duties of a rehabilitation receiver, the liquidator, shall have the right and duty to take all reasonable steps to manage and dispose of the debtor's assets with a view towards maximizing the proceedings therefrom, to pay creditors and stockholders, and to terminate the debtor's legal existence. Other duties of the liquidator in accordance with this section may be established by procedural rules.

A liquidator shall be subject to removal pursuant to procedures for removing a rehabilitation receiver.

**Section 120. *Compensation of the Liquidator.*** - The liquidator and the persons and entities engaged or employed by him to assist in the discharge of his powers and duties shall be entitled to such reasonable compensation as may be determined by the liquidation court, which shall not exceed the maximum amount as may be prescribed by the Supreme Court.

**Section 121. *Reporting Requirements.*** - The liquidator shall make and keep a record of all moneys received and all disbursements made by him or under his authority as liquidator. He shall render a quarterly report thereof to the court, which report shall be made available to all interested parties. The liquidator shall also submit such reports as may be required by the court from time to time as well as a final report at the end of the liquidation proceedings.

**Section 122. *Discharge of Liquidator.*** - In preparation for the final settlement of all the claims against the debtor, the liquidator will notify all the creditors, either by publication in a newspaper of general circulation or such other mode as the court may direct or allow, that will apply with the court for the settlement of his account and his discharge from liability as liquidator. The liquidator will file a final accounting with the court, with proof of notice to all creditors. The accounting will be set for hearing. If the court finds the same in order, the court will discharge the liquidator.

### **(C) Determination of Claims**

**Section 123. *Registry of Claims.*** - Within twenty (20) days from his assumption into office the liquidator shall prepare a preliminary registry of claims of secured and unsecured creditors. Secured creditors who have waived their security or lien, or have fixed the value of the property subject of their security or lien by agreement with the liquidator and is admitted as a creditor for the balance, shall be considered as unsecured creditors. The liquidator shall make the registry available for public inspection and provide publication notice to creditors, individual debtors owner/s of the sole proprietorship-debtor, the partners of the partnership-debtor and shareholders or members of the corporation-debtor, on where and when they may inspect it. All claims must be duly proven before being paid.

**Section 126. *Submission of Disputed to the Court.*** - The liquidator shall resolve disputed claims and submit his findings thereon to the court for final approval. The liquidator may disallow claims.

### **(E) The Liquidation Plan.**

**Section 129. *The Liquidation Plan.*** - Within three (3) months from his assumption into office, the Liquidator shall submit a Liquidation Plan to the court. The Liquidation Plan shall, as a minimum enumerate all the assets of the debtor and a schedule of liquidation of the assets and payment of the claims.

**Section 131. *Sale of Assets in Liquidation.*** - The liquidator may sell the unencumbered assets of the debtor and convert the same into money. The sale shall be made at public auction. However, a private sale may be allowed with the approval of the court if; (a) the goods to be sold are of a perishable nature, or are liable to quickly deteriorate in value, or are disproportionately expensive to keep or maintain; or (b) the private sale is for the best interest of the debtor and his creditors.

With the approval of the court, unencumbered property of the debtor may also be conveyed to a creditor in satisfaction of his claim or part thereof.

**Section 132. *manner of Implementing the Liquidation Plan.*** - The Liquidator shall implement the Liquidation Plan as approved by the court. Payments shall be made to the creditors only in accordance with the provisions of the Plan.

Rule 2(B) Sec 5. an Inventory of Assets which must list with reasonable particularity all the assets of the debtor, whether in the possession of the debtor or third parties, stating the nature of each asset; the location and condition thereof; the book value and market value of the asset, and attaching the corresponding certified copy of the certificate of title thereof in case of real property, or the evidence of title or ownership in case of movable property; the encumbrances, liens or claims thereon, if any, and the identities and addresses of the lien holders and claimants.

(c) *Claim* shall refer to all claims or demands of whatever nature or character against the debtor or its property, whether for money or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, including, but not limited to; (1) all claims of the government, whether national or local, including taxes, tariffs and customs duties; and (2) claims against directors and officers of the debtor arising from acts done in the discharge of their functions falling within the scope of their authority: *Provided*, That, this inclusion does not prohibit the creditors or third parties from filing cases against the directors and officers acting in their personal capacities.

#### **(A) The Liquidation Order.**

**Section 112. *Liquidation Order.*** - The Liquidation Order shall:

(a) declare the debtor insolvent;

(b) order the liquidation of the debtor and, in the case of a juridical debtor, declare it as dissolved;

- (c) order the sheriff to take possession and control of all the property of the debtor, except those that may be exempt from execution;
- (d) order the publication of the petition or motion in a newspaper of general circulation once a week for two (2) consecutive weeks;
- (e) direct payments of any claims and conveyance of any property due the debtor to the liquidator;
- (f) prohibit payments by the debtor and the transfer of any property by the debtor;
- (g) direct all creditors to file their claims with the liquidator within the period set by the rules of procedure;
- (h) authorize the payment of administrative expenses as they become due;
- (i) state that the debtor and creditors who are not petitioner/s may submit the names of other nominees to the position of liquidator; and
- (j) set the case for hearing for the election and appointment of the liquidator, which date shall not be less than thirty (30) days nor more than forty-five (45) days from the date of the last publication.

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- (a) the juridical debtor shall be deemed dissolved and its corporate or juridical existence terminated;
- (b) legal title to and control of all the assets of the debtor, except those that may be exempt from execution, shall be deemed vested in the liquidator or, pending his election or appointment, with the court;
- (c) all contracts of the debtor shall be deemed terminated and/or breached, unless the liquidator, within ninety (90) days from the date of his assumption of office, declares otherwise and the contracting party agrees;
- (d) no separate action for the collection of an unsecured claim shall be allowed. Such actions already pending will be transferred to the Liquidator for him to accept and settle or contest. If the liquidator contests or disputes the claim, the court shall allow, hear and resolve such contest except when the case is already on appeal. In such a case, the suit may proceed to judgment, and any final and executor judgment therein for a claim against the debtor shall be filed and allowed in court; and
- (e) no foreclosure proceeding shall be allowed for a period of one hundred eighty (180) days.

**Section 114. *Rights of Secured Creditors.*** - The Liquidation Order shall not affect the right of a secured creditor to enforce his lien in accordance with the applicable contract or law. A secured creditor may:

- (a) waive his right under the security or lien, prove his claim in the liquidation proceedings and share in the distribution of the assets of the debtor; or

(b) maintain his rights under the security or lien:

If the secured creditor maintains his rights under the security or lien:

(1) the value of the property may be fixed in a manner agreed upon by the creditor and the liquidator. When the value of the property is less than the claim it secures, the liquidator may convey the property to the secured creditor and the latter will be admitted in the liquidation proceedings as a creditor for the balance. If its value exceeds the claim secured, the liquidator may convey the property to the creditor and waive the debtor's right of redemption upon receiving the excess from the creditor;

(2) the liquidator may sell the property and satisfy the secured creditor's entire claim from the proceeds of the sale; or

(3) the secure creditor may enforce the lien or foreclose on the property pursuant to applicable laws.