

## The Insolvency and Bankruptcy Code, 2016

### PART III

### Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms

#### CHAPTER IV

#### Bankruptcy Order for Individuals and Partnership Firms

#### Section 123: Application by creditor:

123. (1) The application for bankruptcy by the creditor shall be accompanied by—

- (a) the records of insolvency resolution process undertaken under Chapter III;
- (b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;
- (c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and
- (d) such other information as may be prescribed.

(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with—

- (a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or
- (b) a statement by the creditor stating—
  - (i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and
  - (ii) an estimated value of the unsecured part of the debt.

(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.

(4) The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.

(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the

Adjudicating Authority.

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**Notifications & Circulars**

\*Only in so far as they relate to personal guarantors to corporate debtors, shall [come into force](#) w.e.f. 01.12.2019.