

The New Revolution of the Consumer Debt Clearance System

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Abstract

In June 2007, the Legislative Yuan ratified the Consumer Debt Clearance Act. This legislation is an attempt to resolve the card debts and card slaves resulting from the dual card (the cash card and credit card) storm caused by the consumer finance surplus. However, this Act also serves as a system base to clear the multiple or large debts imposed on consumers and assist them to restart an economic life as a sound society member. As for the architecture of consumer debt clearance procedure, this Act sets up the negotiation procedure outside the court and the rehabilitation and liquidation procedure in the court. The former is the precondition of entering rehabilitation or liquidation procedure, while the latter is a choice of the debtor. As for the procedure laws applicable to the debt clearance, while it positions the Supervisor and the Administrator as the non-mandatory entities, it also provides that the final judgment of the debt dispute concluded by the competent court has the binding effects. As for the substantial laws applicable to the debt clearance, this Act grants the Supervisor and the Administrator the rights to withdraw, terminate and rescind any fraudulent or unjust behaviors, as well as any mutual agreement which has not been fully performed, existing before the commencement of rehabilitation or liquidation. In addition, in order to maintain self-use residence and other properties owned by the debtor, in the rehabilitation procedure, this Act provides the special loan provision for the self-use residence and the extinguishment of security by statement. Furthermore, under this Act, the debtor's liabilities may be exempted in the case of insufficient solvency in the rehabilitation procedure or at court's discretion in the resolution procedure. Either of such mechanisms

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respectively provides an opportunity for the debtor to restart a healthier economic life. This new system can clear the debts in the simple, quick, economic and effective approach, satisfy the creditors fairly to its maximal extent, and rehabilitate the consumer's economic life.

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