

## Important amendments to the Commercial Act

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An Act to Amend and Supplement the Commercial Act (the “Act”) was promulgated in the State Gazette, issue No 105 of 30 December 2016.

Below we present a brief summary of the main amendments introduced by the Act.

### **A stricter validity form requirement for certain documents**

In addition to the current requirements for notary certification of the signatures on agreements for the transfer of a commercial enterprise and agreements for the transfer of shares, a new requirement for an additional notary certification of the content of such agreements, is introduced by the Act.

The same validity form requirement is introduced with regard to the minutes from the resolutions of the General Meeting of the Shareholders of limited liability companies for acceptance and dismissal of shareholders, share capital increase and decrease, transfer of shares to a new shareholder, appointment of a Managing Director and acquisition and disposal of real estate and property rights thereto. Such validity form shall not be mandatory if the respective Articles of Association explicitly provide for a simple written validity form with regard to such resolutions.

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## **Amendments related to insolvency proceedings**

The amendments introduce two new legal presumptions with regard to proving the state of insolvency, according to which a trader shall be considered insolvent in case:

- It has not filed for announcement in the Commercial Register its annual financial statements for the last three years; or
- As a result of implementing an effective act of the creditor who has filed the application for opening of the insolvency proceedings, enforcement proceedings were opened against the said trader, and at the same time the receivables of the creditor have remained wholly or partly unsatisfied within six months of receiving the notice or communication for voluntarily performance.

The Act also introduces amendments to a number of procedural rules within the insolvency proceedings, including with regard to the assembly of the creditors, cashing of the debtor's property and filing of declaratory claims.

## **Stabilization proceedings**

In light of the recommendations of the European Commission and the Council of the European Union, stabilization proceedings for traders which are entirely new for Bulgaria have been introduced. The proceedings will apply to traders who are not insolvent but are in imminent danger of insolvency.

The purpose of the introduction of these stabilization proceedings is to create an effective procedure, providing for the possibility to reach an agreement prior to the opening of insolvency proceedings, to negotiate debt restructuring, to create conditions for the recovery and stabilization of the enterprise and continuance of its activity and thus, to avoid the insolvency.

The Act regulates in detail the grounds for opening of stabilization proceedings, the traders with regard to which they could be opened, the consequences and grounds for termination thereof.

The competent body within the stabilization proceedings is the district court as per the seat of the trader. The Act introduces the figure of the "Fiduciary" which is an auxiliary body of the court within the stabilization proceedings.

For the purposes of the stabilization proceedings, the trader prepares and submits to the court a stabilization plan, containing the

terms and conditions with regard to the payment to its creditors, as well as the extent of their satisfaction.

The circumstances, related to the stabilization proceedings opened with regard to a trader, as well as the court acts, issued in this regard, are subject to an entry under its batch in the Commercial Register.

### **Entry into force**

The Act enters into force on 3 January 2017, save for the provisions with regard to the stabilization proceedings, which shall enter into force on 30 June 2017.

In case you have any questions or require further assistance, we will gladly be of help.



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