

SUPERIOR COURT

FREQUENTLY ASKED QUESTIONS COVID-19 BUSINESS RECOVERY PLAN

Question: What is the COVID-19 Business Recovery Plan?

Answer: It is a program instituted by the Superior Court to provide court-supervised protection to businesses that have been significantly disrupted by the COVID-19 pandemic. Such protections are designed so that those businesses may have the opportunity to operate, access new working capital, and pay its debts from revenue generated by ongoing operations. Absent such protections, those businesses may fail to emerge from the crisis and its assets would be in danger of being wasted or lost.

Question: Doesn't a receivership result in the business being sold for the benefit of creditors?

Answer: In a traditional receivership that is the case. However, in a Non-Liquidating Receivership, the court can provide protection for a period of time while the business attempts to get back on track.

Question: How is the program beneficial to businesses disrupted by the COVID-19 pandemic?

Answer: Businesses disrupted by the COVID-19 pandemic may benefit from court-supervised protection from lawsuits and other actions by creditors for a period of time. This may allow businesses to access new working capital or restore revenue streams.

Question: What businesses are eligible?

Answer: A business may be eligible if it was paying its debts in the usual course of business prior to January 15, 2020, but can no longer pay those debts as they become due as a result of the COVID-19 pandemic.

Question: How can a business participate in this program?

Answer: A business can file what is called a Verified Petition with the Superior Court. The Verified Petition must satisfy the eligibility criteria. In addition, the business must develop an Operating Plan, which demonstrates how the business can get to a point where it is paying its debts in the usual course of business.

Question: Does the business need to hire an attorney?

Answer: Yes. With very limited exceptions, a business is required to be represented by an attorney in court proceedings.

Question: Where is the Verified Petition filed?

Answer: The Verified Petition is filed with the Superior Court and is then referred to the appropriate Business Calendar. Businesses located in Providence and Bristol counties will file a petition with the Providence County Superior Court, which will be referred to the Providence County Business Calendar. Businesses located in Kent, Washington, and Newport counties will file a petition with the Superior Court in that county. These petitions will be referred to the Out-County Business Calendar.

Question: What is the Business Calendar?

Answer: The Business Calendar is a specialized court calendar that addresses business-related matters for several reasons, including preservation of economic investments and jobs in the State of Rhode Island.

Question: How can a business proceed with a filing if the courts are only hearing limited emergency/essential matters?

Answer: The Supreme Court has instituted procedures for filing petitions electronically and conducting hearings through the Webex conferencing system. The COVID-19 Non-Liquidating Receivership Program will operate in accordance with these procedures during the COVID-19 pandemic.

Question: How long will it take the court to determine if a business can participate?

Answer: The business will be required to submit a proposed Operating Plan to the Non-Liquidating Receiver within ten (10) days of the Receiver's appointment by the court. The Non-Liquidating Receiver will then distribute the proposed Operating Plan to the businesses' creditors and will schedule a hearing before the court no later than fifteen (15) days later. At that time, the court will consider whether to approve the proposed Operating Plan.

Question: How is the business able to operate during a Non-Liquidating Receivership?

Answer: The business will operate in accord with a court-approved Operating Plan, under the oversight of a court-appointed Non-Liquidating Receiver.

Question: Who is a Non-Liquidating Receiver?

Answer: A Non-Liquidating Receiver is an attorney appointed by the court to oversee the businesses' operation in accord with the court-approved Operating Plan. The Receiver will also enforce the court-ordered protections for the benefit of the business.

Question: What controls will be placed on the business?

Answer: The business will have to operate in accord with the Operating Plan. The business will not be able to make expenditures, dispose of assets, or mortgage assets without the approval of the court.

Question: What happens if the business cannot perform in accord with the Operating Plan?

Answer: If the business cannot operate in accord with the Operating Plan, the business runs the risk of being placed into a traditional receivership, whereby the business or its assets may be sold for the benefit of creditors. However, that cannot take place without a hearing before the court and a finding that the business is in default of the Operating Plan.

Question: Can the Operating Plan be updated or changed as the business proceeds in the program?

Answer: Yes. There are provisions to update the Operating Plan as the business proceeds under the court-supervised protections of the program.

Question: How does the business successfully exit the program?

Answer: The COVID-19 Non-Liquidating Receivership Program seeks to provide a business court-supervised protection for a period of time, during which the business can try and access new sources of working capital. If successful, the business will present a plan to exit the program and pay its debts from the revenue generated from ongoing operations.

Question: Does the program eliminate business debt?

Answer: No. This program is designed to provide temporary court-supervised protection to a business so that the business can access new working capital and/or restore revenue streams. Once this happens, the business will address its debts with revenues generated by ongoing operations.

Question: How long does the process take?

Answer: The program was specifically designed to provide flexibility. The duration of the Non-Liquidating Receivership will be monitored and determined by the court on a case-by-case basis.