

INDIA JURIS

Amendment in Insolvency and Bankruptcy Law.

Ministry of Law and Justice on Thursday, 23rd November 2017 had cleared the ordinance for making amendments in the Insolvency and Bankruptcy Code "Code".

The amendment has resulted in insertion of new Sections i.e. 235A and 29A that makes certain persons, including willful defaulters and those who have their accounts classified as non-performing assets for one year or more, also includes those who are unable to settle their overdue amounts include interest thereon and charges relating to the account before submission of the resolution plan & those who have executed an enforceable guarantee in favour of a creditor, in respect of a corporate debtor ineligible to be a resolution applicant. The Ordinance further amends sections 2, 5, 25, 30, 35 and 240 of the Code.

The newly introduced provisions indicate that promoters of at least the first list of 12 large cases referred to the Insolvency and Bankruptcy Code under direction by the RBI would not be allowed to bid.

Finding ways to trim down over \$147 billion bad loans accumulated in the banking sector, the finance ministry had earlier asked the banking institutions ensure those who have history of fraud are not allowed to buy same stressed assets.

The Code, which became operational in December last year, provides for a market-determined and time-bound insolvency resolution process. It is implemented by the corporate affairs ministry.

Gist of the amendments is given below:

- i. Clause (e) of Section 2 of the Code has been substituted with three Clauses. This would facilitate the commencement of Part III of the Code relating to individuals and partnership firms in phases.

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