

REPUBLIC OF LITHUANIA

**LAW
ON THE GUARANTEE FUND**

12 September 2000 No. VIII-1926
Vilnius

(as last amended on 15 April 2004 No. IX-2139)

CHAPTER ONE

GENERAL PROVISIONS

Article 1. Purpose of the Law

1. This Law shall establish the purpose, legal basis of activities, management, and financial sources of the Guarantee Fund.

2. The provisions of this Law shall be applicable to all enterprises, public institutions, banks, with the exception of the Bank of Lithuania, and credit unions (hereinafter “enterprises”) which are registered in accordance with the procedure established by the laws of the Republic of Lithuania.

**Article 2. General Provisions of the Establishment and Management of the
Guarantee Fund**

1. The founder of the Guarantee Fund shall be the Government of the Republic of Lithuania.

2. The Administrator of the Guarantee Fund shall be an institution authorised by the Government of the Republic of Lithuania. The activities of the Administrator of the Guarantee Fund shall be regulated by the Regulations of the Guarantee Fund which are subject to the approval of the Government of the Republic of Lithuania.

3. The Guarantee Fund shall be a monetary fund.

4. In its activities the Guarantee Fund shall be guided by the Constitution of the Republic of Lithuania, the Law of the Republic of Lithuania on Enterprise Bankruptcy, this Law and other

laws of the Republic of Lithuania, resolutions of the Government of the Republic of Lithuania, the Regulations of the Guarantee Fund and other legal acts of the Republic of Lithuania.

Article 3. Purpose of the Guarantee Fund

The resources of the Guarantee Fund shall be allocated for the payment of sums in the amount fixed by this Law to the employees of enterprises in bankruptcy or bankrupt enterprises whose employment relationships with the said enterprises were discontinued, to the employees who continue employment relationships with the enterprise in bankruptcy and to the former employees of enterprises liquidated by reason of bankruptcy after entry into force of this Law, where the enterprises have not paid their outstanding claims as well as for covering the Guarantee Fund administration expenses according to the procedure laid down in the Regulations of the Guarantee Fund.

CHAPTER TWO

RESOURCES OF THE GUARANTEE FUND, THEIR USE AND CONTROL

Article 4. Resources of the Guarantee Fund

1. The resources of the Guarantee Fund shall be comprised of:

1) contributions by enterprises specified in paragraph 2, Article 1 of this Law, amounting to 0.2 percent of the employees' pay due to them (on the basis of which compulsory state social insurance contributions are calculated);

2) resources of the Privatisation Fund and the state budget resources allocated under a separate programme;

3) funds received from the enterprises which are in bankruptcy or bankrupt enterprises to satisfy the creditor claims of the Guarantee Fund;

4) voluntary contributions by natural and legal persons as well as by enterprises without the rights of a legal person.

2. The resources of the Guarantee Fund shall be accumulated and kept in the State Treasury account opened with the Bank of Lithuania.

3. Contributions to the Guarantee Fund shall be administered according to the Law on Tax Administration.

4. The contributions of enterprises to the Guarantee Fund shall be paid in accordance with the following procedure:

1) the enterprises shall calculate the amount due and pay the contributions as of the date from which calculation of the employees' pay commences.

2) contributions shall be paid once a month no later than by the fifteenth day of the next month.

5. The resources of the Guarantee Fund shall be used only for the purpose provided for in Article 3 of this Law.

Article 5. Use of the Guarantee Fund Resources

1. The employees specified in Article 3 of this Law shall be paid the following sums not paid to them prior to the date of application to the Guarantee Fund:

1) the pay for work under of the employee's outstanding claim but not higher than the amount determined by the Government on the recommendation of the Board of the Guarantee Fund. The sum prescribed by the Government may not be below the amount of three minimum monthly wages;

2) a monetary compensation for the unused annual leave but only for a period not longer than the minimum annual leave established by the Labour Code and for not more than one year of work and not exceeding the amount determined by the Government on the recommendation of the Board of the Guarantee Fund;

3) the severance pay provided for in Article 140 of the Labour Code or Article 19 of the Law on Enterprise Bankruptcy. The amount of the severance pay may not exceed the level fixed by the Government on the recommendation of the Board of the Guarantee Fund;

4) a compensation for damage caused by accidents at work or an occupational disease, payable in the amount established by the Provisional Law of the Republic of Lithuania on Damage Compensation in Accident at Work or Occupational Diseases, where this obligation does not pass the state according to the procedure laid down in the law referred to above;

5) payment for idle time. The amount of this payment shall not be higher than the amount fixed by the Government on the recommendation of the Board of the Guarantee Fund.

2. When allocating the sums payable from the Guarantee Fund to the employees of enterprises in bankruptcy or bankrupt enterprises or to the former employees of the enterprises liquidated by reason of bankruptcy, a portion of the Guarantee Fund resources may be allocated to cover the expenses relating to the drafting of the applications for payment and the payment of the resources transferred to the enterprise (partial remuneration for bank transactions and the work of the Administrator). The amount of resources for this purpose may be allocated at the

request of the Administrator (chairman of the liquidation commission) of the enterprise having no assets and in bankruptcy or a bankrupt enterprise or of an institution authorised by the Board of the municipality where the enterprise liquidated by reason of bankruptcy after entry into force of this Law was registered; however, the amount of resources allocated may not exceed the amount determined by the Government on the recommendation of the Board of the Guarantee Fund.

3. The amounts of the payments specified in subparagraphs 1 and 5, paragraph 1 of this Article from the Guarantee Fund shall be calculated on the basis of the claims of the employees of enterprises in bankruptcy or bankrupt enterprises arising out of their employment relationships preceding the initiation of the enterprise bankruptcy proceedings and for a period not longer than two months after the initiation of bankruptcy proceedings. The payments provided for in subparagraphs 2 and 3, paragraph 1 of this Article shall be calculated when terminating the employment contract.

4. The approved amount of the employees' creditor claims shall be reduced by the amount paid from the Guarantee Fund. The Administrator of the Guarantee Fund shall have recourse against the said amount. His creditor claims shall be satisfied in accordance with the procedure established by the Law on Enterprise Bankruptcy.

5. Payments referred to in paragraph 1 of this Article shall be made to the employees of the enterprise in bankruptcy or a bankrupt enterprise.

6. The resources of the Guarantee Fund shall also be used to cover the Guarantee Fund administrative expenses according to the procedure laid down in the Regulations of the Guarantee Fund.

7. The resources of the Guarantee Fund transferred to an enterprise may not be written off from the enterprise account by the decisions of state institutions or institutions authorised to enforce recovery of debts in an extra judicial procedure, nor may they be seized or used otherwise for purposes not provided for by this Law.

Article 6. Procedure of Allocation of Guarantee Fund Resources

1. The procedure for the allocation of the Guarantee Fund resources shall be laid down in the Regulations of the Guarantee Fund.

2. Documents regarding allocation of resources to meet the employees' claims resulting from the relationships of employment must be submitted to the Administrator of the Guarantee Fund within 1 month from the date of approval of the creditor claims, by the Administrator of the

enterprise which is in bankruptcy or the chairman of the liquidation commission of a bankrupt enterprise in accordance with the procedures established in the Regulations of the Guarantee Fund

3. Allocation of resources from the Guarantee Fund shall be initiated by the Administrator of the Guarantee Fund, when, after a lapse of 2 months from the date of approval of creditor claims, the employees/employee of an enterprise which is in bankruptcy or a bankrupt enterprise or an organisation representing them communicates to the Board of the Guarantee Fund in writing that the administrator of the enterprise which is in bankruptcy or the chairman of the liquidation commission of a bankrupt enterprise has failed to apply for the allocation of resources.

4. After entry into force of this Law, the documents necessary for granting funds to meet the claims arising out of employment relationships of the employees of enterprises liquidated by reason of bankruptcy shall be submitted by an institution authorised by the Board of the municipality within the territory of which the enterprise liquidated by reason of bankruptcy was registered/operated or, under its direction, by a legal person who has been authorised to render services of administration of bankruptcy of enterprises.

5. The employees/employee of an enterprise which is in bankruptcy or a bankrupt enterprise or the organisation representing them must give the administrator of the enterprise which is in bankruptcy or the chairman of the liquidation commission of a bankrupt enterprise a 15-day advance notice in writing of their intention to apply to the Board of the Guarantee Fund. A copy of the notice shall accompany the communication addressed to the Administrator of the Guarantee Fund.

6. A decision on the allocation of the Guarantee Fund resources shall be taken, on the recommendation of the Administrator of the Guarantee Fund, by the Board of the Guarantee Fund not later than within one month from the date of the receipt of documents from the Administrator of the Guarantee Fund.

7. After the Board of the Guarantee Fund takes a decision to allocate the resources, the Administrator of the Guarantee Fund together with the enterprise which is in bankruptcy or the bankrupt enterprise or an institution authorised by the municipality Board, or, on its direction, a legal person who has been authorised to render services of administration of enterprise bankruptcy, shall conclude an agreement on the transfer of the Guarantee Fund resources to the enterprise (a municipality institution, a legal person who provides administration of bankruptcy services).

8. The decisions of the Board of the Guarantee Fund may be appealed against in accordance with procedure established by laws.

Article 7. Financial Control of the Guarantee Fund

1. The financial activities of the Guarantee Fund shall be controlled by the State Control.
2. Financial statements of the Guarantee Fund shall be subject to annual inspection by an auditor or a firm of auditors. The Board of the Guarantee Fund shall publish its annual financial statements together with the auditor's report in the information supplement "*Informaciniai pranešimai*" attached to the publication "*Valstybės žinios*" ("Official Gazette") within 3 months after the close of the financial year.

CHAPTER THREE MANAGEMENT OF THE GUARANTEE FUND

Article 8. Board of the Guarantee Fund

1. The Guarantee Fund shall be managed by the Board of the Guarantee Fund. The composition of the Board of the Guarantee Fund shall be approved by the Government of the Republic of Lithuania.
2. The Board of the Guarantee Fund shall be composed of 12 members: 4 members shall represent organisations protecting the interests of employees (professional unions and their associations), 4 - the organisations of employers (unions, associations, etc.) and 4 - state administration institutions. Representatives of the organisations protecting the interests of employees and representatives of employers shall be delegated by the organisations which are representing them, whereas the representatives of state administration institutions shall be appointed by the Government.
3. The activities of the Board of the Guarantee Fund shall be directed by the chairman. He shall be appointed by the Government from the representatives of state administration institutions.

Article 9. Competence of the Board of the Guarantee Fund

1. The activities of the Board of the Guarantee Fund shall be established by the Regulations of the Guarantee Fund.
2. The Board of the Guarantee Fund shall:

- 1) manage the resources of the Fund;
- 2) make decisions regarding the allocation of the resources of the Guarantee Fund;
- 3) submit proposals to the Government regarding the maximum amounts of compensations as provided for in subparagraphs 1 and 5, paragraph 1 of Article 5;
- 4) submit semi-annual and annual reports about the activities of the Guarantee Fund to the Government;
- 5) submit recommendations on the issues relating to the activities of the Guarantee Fund to the Government;
- 6) approve the model form of the agreement on the transfer of the Guarantee Fund resources to an enterprise;
- 7) carry out other tasks and functions set forth in the Regulations of the Guarantee Fund.

Article 10. Functions of the Administrator of the Guarantee Fund

The main functions of the Administrator of the Guarantee Fund shall be as follows:

- 1) to carry out the directions of the Board of the Guarantee Fund and its chairman;
- 2) to accept requests from the enterprises which are in bankruptcy or bankrupt enterprises requesting allocation of resources for payment of workers' outstanding claims referred to in Article 3, to examine the requests and make them ready for the meetings of the Board of the Fund;
- 3) after the Board of the Guarantee Fund adopts a decision to allocate the resources, to conclude an agreement on the transfer of resources to the enterprise;
- 4) to represent the Guarantee Fund, according to the competence set out in the Regulations of the Guarantee Fund, in state and local government institutions, judicial and other institutions, enterprises and organisations in all matters relating to the Fund's activities. The interests of the Guarantee Fund may also be represented by other institutions authorised by the Government of the Republic of Lithuania;
- 5) to draw up semi-annual and annual reports of the Guarantee Fund;
- 6) to control and accumulate information on the use of the Guarantee Fund resources;
- 7) to resolve other issues provided for in the Regulations of the Guarantee Fund.

CHAPTER FOUR FINAL PROVISIONS

Article 11. Reorganisation and Liquidation of the Guarantee Fund

1. The Guarantee Fund shall be reorganised and liquidated by the Government of the Republic of Lithuania.

2. Upon the liquidation of the Guarantee Fund, the procedure for using the unused resources shall be laid down by the founder of the Fund.

Article 12. Coming into Force of the Law and its Application

1. This Law shall come into force from 1 October 2000.

2. Subparagraphs 2, 3 and 5, paragraph 1, Article 5 of this Law shall not apply to the enterprises in respect of which bankruptcy proceedings were initiated before the date of coming into force of this Law. The provisions of this Law shall not apply to enterprises in respect of which a court, hearing the bankruptcy case, or a creditors' meeting in an extra judicial bankruptcy procedure, makes a ruling/decision prior to the date of entry into force of this Law to decision to remove the enterprise liquidated by reason of bankruptcy from the register. Where during the bankruptcy proceedings the employees of an enterprise which is in bankruptcy or of a bankrupt enterprise were already paid from the Fund a certain portion of the Fund's financial support resources to meet the outstanding claims relating to employment relationships, the payments to them under subparagraph 1, paragraph 1, Article 5 of this Law must be reduced by the amount paid. Where the financial support set aside for the employees provided for in subparagraph 1, paragraph 1, Article 5 under the provisions of this paragraph which were in force were reduced during the bankruptcy proceedings by the amount of the wages from the enterprise's resources, the employees will be granted additional payments the amount of each of which equals the sum by which the payment set aside for them earlier was reduced.

3. Examination of the requests by the enterprises which are in bankruptcy or by bankrupt enterprises for the allocation of resources from the Guarantee Fund to the employees specified in Article 3 of this Law shall be started in the Board of the Guarantee Fund not earlier than after 3 months from the date of coming into force of this Law.

4. Enterprises shall start paying contributions to the Guarantee Fund from 15 March 2001.

5. The enterprises which had paid contributions to the Guarantee Fund by 15 March 2001 may reduce by their amount the contributions calculated and payable to the Guarantee Fund from 15 March 2001.

Article 13. Implementation of the Law

The Government shall:

- 1) approve the Regulations of the Guarantee Fund;
- 2) approve the composition of the Board of the Guarantee Fund;
- 3) approve the procedure for application of subparagraphs 1 and 4, paragraph 1, Article 5 of this Law for the enterprises in respect of which bankruptcy proceedings were initiated prior to the date of coming into force of this Law;
- 4) make provisions for the allocations for the initial contribution to the Guarantee Fund in the draft of the state budget for 2001;
- 5) draft amendments to the Law on the Privatisation of State-owned and Municipal Property, prescribing the use of a portion of privatisation funds for the Guarantee Fund.
- 6) approve the procedure for the enterprises, liquidated by reason of bankruptcy after entry into force of this Law, for granting payments.
- 7) approve the procedure for granting additional payments provided for in paragraph 2, Article 12 of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS