

BOALE, WOOD & COMPANY LTD.

Licensed Insolvency Trustee

www.boalewood.ca

	Consumer Proposal	Division I Proposal
Debt limit	Must have less than \$250,000 in debt to qualify. • <i>This amount excludes mortgages on principal residences.</i>	No debt minimum and no debt ceiling. • <i>If debt over \$250,000 (not including mortgage on principal residence), consumer proposal is not available.</i>
Who can file?	Available only to individuals (consumers).	Available to individuals, and corporations including, but not limited to, a receiver or a liquidator of a corporation.
Length of time	A consumer proposal cannot be longer than five years.	There is no time limit set on how long a Division I proposal can be.
Creditor notification and Stay of Proceedings	Once the documents have been filed with the Office of the Superintendent of Bankruptcy, protection from collection action is in place immediately. Creditors are to be notified within 5 business days. • <i>The Bankruptcy and Insolvency Act provides for an automatic Stay of Proceedings once the documents have been filed. That means protection from collection action.</i>	

<p>Creditor meetings and creditor approval</p>	<p>There is no mandatory meeting of creditors unless the creditors request it. Unsecured creditors have 45 days to accept or reject the proposal or put forward a counter-offer. If no creditor meeting is requested, the proposal is automatically approved after 45 days with deemed court approval 15 days later.</p> <ul style="list-style-type: none"> • <i>There is no mandatory creditor meeting in a consumer proposal unless twenty five (25%) percent of responding creditors request it.</i> • <i>The meeting is where any votes are considered. The approval (voting) process is a majority (50% + 1) of the dollar value of voting creditors.</i> • <i>If a creditor meeting is called, creditors can file a claim and vote at any time before the meeting is held. The effect is that it extends the 45 day time period for creditors who did not respond within the initial 45 day period.</i> 	<p>A mandatory meeting of creditors is called by the LIT at the time the Proposal is filed. The meeting of must be held within 21 days of the filing of the Proposal.</p> <p>The LIT will present the Creditors with a report on the debtors' financial affairs. The Creditors then vote in favor or rejection of the Proposal.</p> <ul style="list-style-type: none"> • <i>The voting in a Division I proposal is twofold. Firstly, a majority of voting creditors must vote in favor AND they must represent two thirds of the dollar value. If both thresholds are not met, the proposal fails.</i>
<p>\$\$\$\$ Return to creditors</p>	<p>The return to the creditors must be greater than what they would receive in a bankruptcy.</p> <ul style="list-style-type: none"> • <i>The LIT prepares a comparison of what creditors would receive in a hypothetical bankruptcy situation versus what is being offered in the proposal.</i> <p><i>The return to creditors not only has to be greater than a bankruptcy, but has to provide the creditor with an incentive to vote in favor of the proposal. A small difference in the percentage is not likely enough to have creditors vote in favor. In fact, it may insult them to the point where they may vote against the proposal.</i></p>	

<p>Consequences of non approval</p>	<p>If the Proposal is rejected at a meeting of creditors there is no automatic bankruptcy. The debtor may file for bankruptcy, or attempt to settle with the creditors directly in an informal manner.</p> <ul style="list-style-type: none"> • <i>But then what. The protection the debtor received upon filing is now gone and the collection calls will start again. At this point, bankruptcy may be the only option left.</i> 	<p>If the Proposal is rejected at the Meeting of Creditors, the debtor is automatically bankrupt.</p> <ul style="list-style-type: none"> • <i>This is the major difference between the two proposals. But is it really a difference? In most cases where a consumer proposal is rejected, the debtor has little option but to go bankrupt. It is just not automatic.</i>
<p>Consequences if payments missed</p>	<p>If you are three payments behind, the Consumer Proposal is considered “annulled”. Protection is immediately lifted and the creditors have the legal right to pursue you for the amounts owing to them, plus accrued interest.</p> <ul style="list-style-type: none"> • <i>The LIT has the ability to revive the proposal, but the payments have to be made up before doing so and the payments have to be kept current during the revival period. That means three months worth of payments have to be brought up to date.</i> 	<p>If payments are in arrears and the protection is lifted, creditors have the legal right to pursue amounts owing to them.</p> <ul style="list-style-type: none"> • <i>One payment missed can be considered a default, but the protection is not lifted until the LIT is discharged. That could take up to 3 – 4 months.</i>
<p>Counselling</p>	<p>There are two mandatory counselling sessions that must be attended during the Consumer Proposal.</p> <ul style="list-style-type: none"> • <i>If the debtor does not complete the sessions, then they do not receive the final Certificate of Full Performance. The issuance of the Certificate is the second most important part of the process. It is the legal mechanism that writes off the debt.</i> 	<p>Counselling sessions are not required in a Division I Proposal.</p>
<p>LIT fees</p>	<p>The fees of the LIT are paid out of the monthly payments</p>	

LIT fees	The fees of the LIT have been set by the Office of the Superintendent of Bankruptcy. • <i>The fees of the LIT are set out in Rule 128 of the Bankruptcy and Insolvency Act. In other words, all LITs get paid the same fee.</i>	The fees of the LIT are set by the LIT and can vary from firm to firm. • <i>LITs can be flexible in their fee arrangements. The fees of the LIT in a Division I proposal are subject to the approval of the Court at the end of the process.</i>
Monthly reports	No monthly income statements required.	
Tax refunds	Tax refunds go to the debtor	
Early payment	The proposal can be prepaid at any time. There is no penalty for early payoff, but also no discount. • <i>Most proposals call for minimum payments but there is no maximum monthly payment. Hence a debtor can always prepay the proposal if they so wish. That would start the clock ticking on when it comes off your credit record. However, the proposal is an interest free loan. There would be little incentive to pay it off early and any extra funds could be used for other purposes like RRSPs.</i>	
Payment in full	Once the proposal has been paid in full (and the counselling sessions have been done), the LIT issues the debtor a Certificate of Full Performance. The issuance of the Certificate is the second most important part of the process. It is the legal mechanism that writes off the debt.	

Schedule a Free Consultation

Would you like to learn more about how a Consumer Proposal, a Division I Proposal, or even a Bankruptcy can help you to get out of debt? Offices throughout Metro Vancouver.

Call us, it's not too late.

(604) 605-3335