

BANKRUPTCY (AMENDMENT) BILL 2004

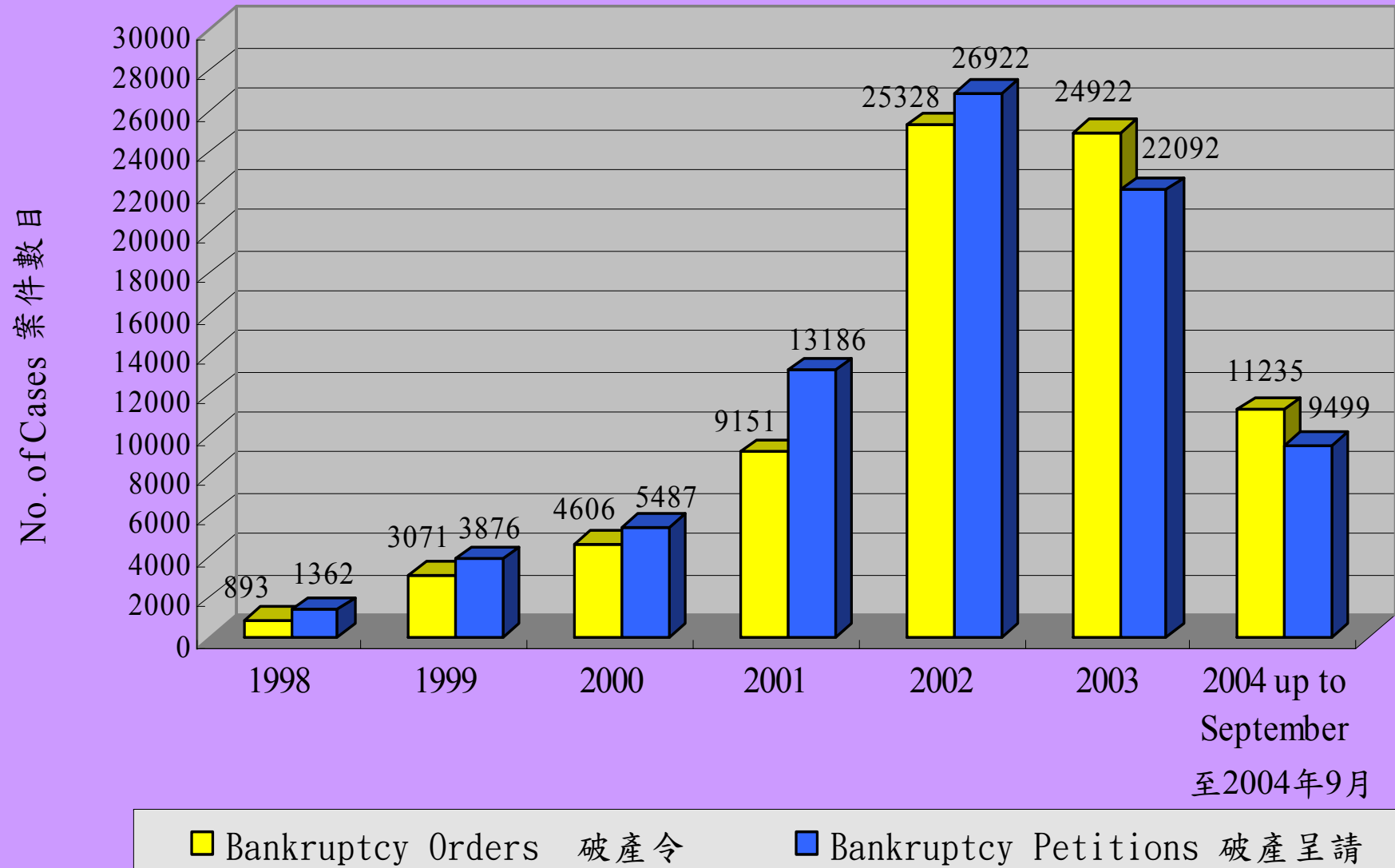
2004年破產(修訂)條例草案

Financial Services and the Treasury Bureau / Official Receiver's Office
財經事務及庫務局 / 破產管理署

November 2004
2004年11月

BANKRUPTCY PETITIONS AND ORDERS MADE

破產呈請及破產令



PROFILE OF BANKRUPTS (1)

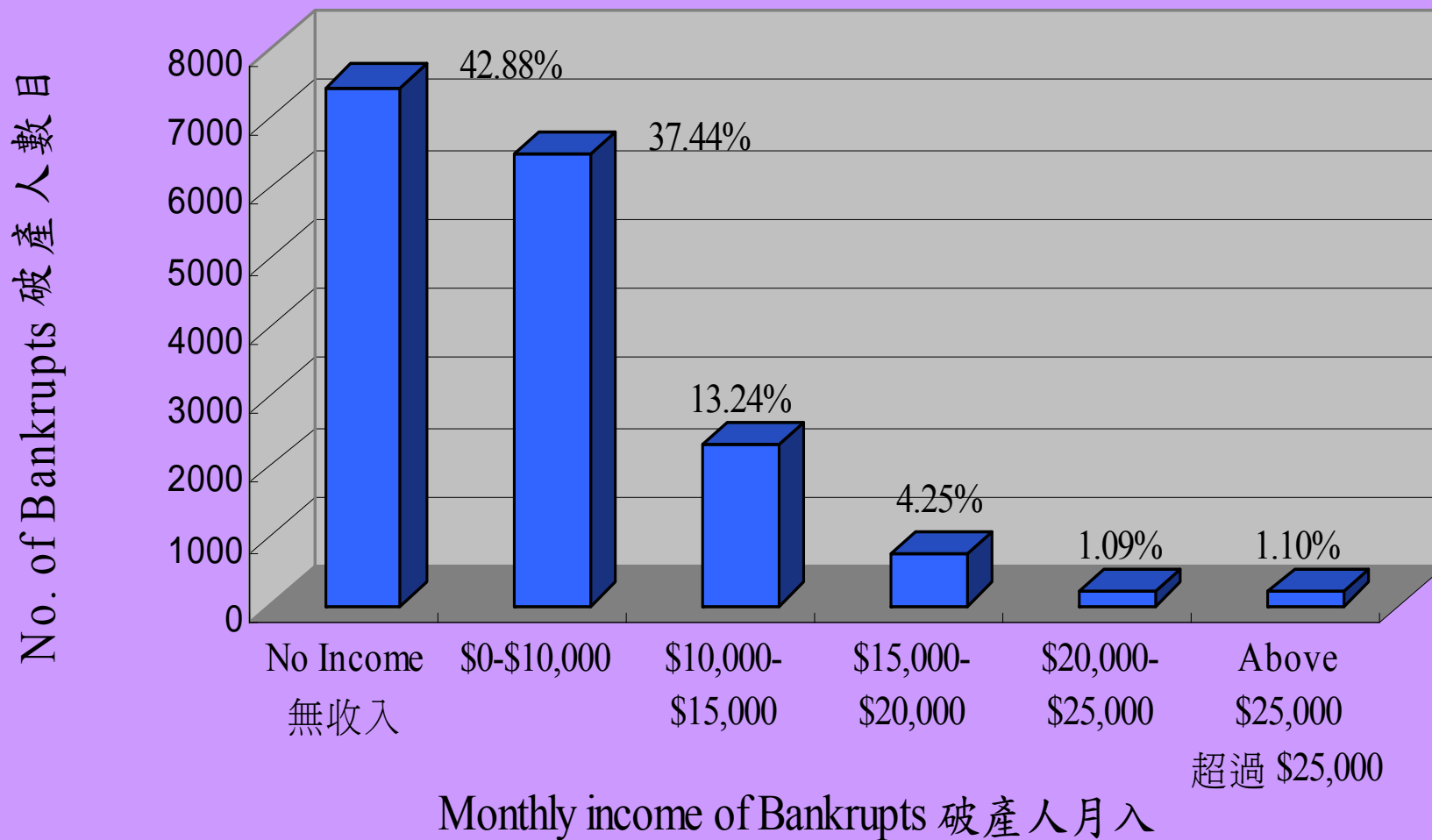
破產人的概況 (1)

(Based on 17,390 cases for the period from 1/4/2003 to 31/3/2004)

(根據1/4/2003至31/3/2004期間17,390宗案件)

Distribution of Income of Bankrupts

破產人收入的分佈

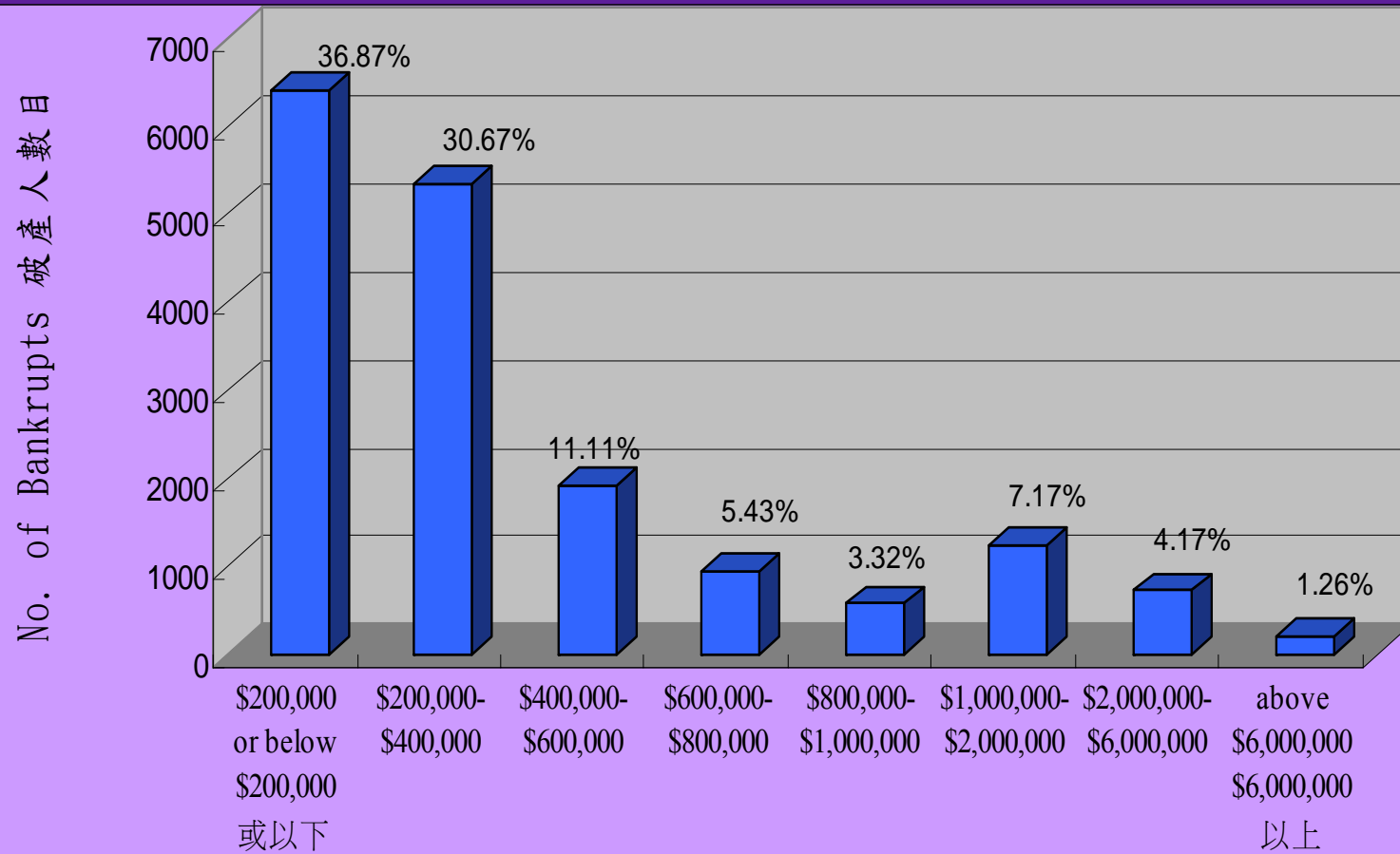


PROFILE OF BANKRUPTS (2)

破產人的概況 (2)

Distribution of Liabilities of Bankrupts

破產人欠債的分佈



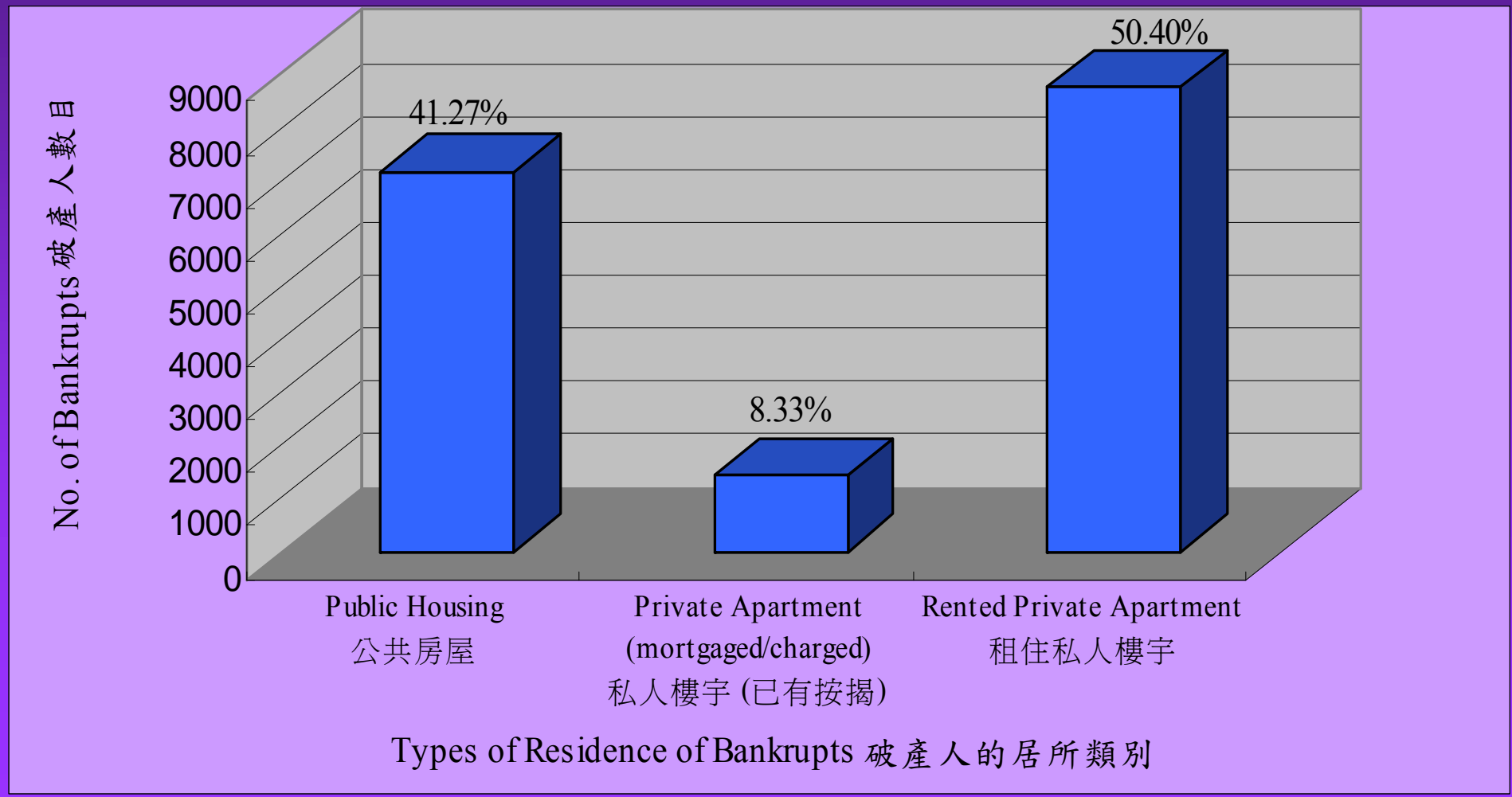
Liabilities of Bankrupts 破產人的欠債

PROFILE OF BANKRUPTS (3)

破產人的概況 (3)

Distribution of Types of Residence of Bankrupts

破產人居所類別的分佈



MAIN STAGES OF BANKRUPTCY (Present) (1)

破產的主要程序(現行) (1)

Creditor's Petition 債權人呈請

A company or a person who is owed a sum of \$10,000 or more by an individual or a firm may present a bankruptcy petition.

Deposit - \$12,150

任何公司或人士被個人或公司拖欠\$10,000或以上的款項，可提出破產呈請。

按金 - \$12,150

Debtor's Petition 債務人呈請

A person who is unable to pay his debts, regardless of the amount, may present a bankruptcy petition.

Deposit - \$8,650

任何人士無能力償付其債項，不論數額多少，均可提出破產呈請。

按金 - \$8,650

Court Hearing 法庭聆訊

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graph TD; A[Creditor's Petition 債權人呈請] --> C[Court Hearing 法庭聆訊]; B[Debtor's Petition 債務人呈請] --> C; C --> D[Next Stage]
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MAIN STAGES OF BANKRUPTCY (Present) (2)

破產的主要程序(現行) (2)

After the court makes a Bankruptcy Order, the Official Receiver becomes the receiver of the bankrupt's property.

法庭作出破產令後，破產管理署署長便成為破產人財產的接管人。

The Official Receiver takes possession of the bankrupt's assets and determines the amount of regular financial contributions the bankrupt may be required to make.

破產管理署署長接管破產人的財產及決定破產人須繳付的定期供款數額。

MAIN STAGES OF BANKRUPTCY (Present) (3)

破產的主要程序(現行) (3)

Where the bankrupt's assets are likely to exceed \$200,000 in value, the Official Receiver convenes a general meeting of creditors to consider the appointment of a trustee.

如破產人的財產價值可能超過 \$200,000，破產管理署署長便召集破產人的債權人會議以決定委任受託人。

Where the bankrupt's assets are likely to be not more than \$200,000 in value, the Official Receiver applies to the court for an order for summary administration of the bankrupt's estate. Upon the court order, the Official Receiver shall be the trustee. There will be no meeting of creditors.

如破產人的財產價值可能不超過 \$200,000，破產管理署署長便向法庭申請簡易管理破產人的產業的命令。法庭作出命令後，破產管理署署長便成為受託人。無須召開債權人會議。

MAIN STAGES OF BANKRUPTCY (Present) (4)

破產的主要程序(現行) (4)

The trustee –

- realizes the bankrupt's assets
- collects regular financial contributions from the bankrupt
- pays a dividend to the creditors where possible

受託人—

- 變現破產人的財產
- 收取破產人應繳付的定期供款
- 如可能，向債權人派發攤還款項

The bankrupt is normally discharged from bankruptcy four years after the making of the Bankruptcy Order.

破產人通常於作出破產令四年便解除破產。

BANKRUPTCY (AMENDMENT) BILL (1)

破產(修訂)條例草案 (1)

- Enables outsourcing of bankruptcy cases by the Official Receiver
使破產管理署署長可以外判破產案件
- Official Receiver becomes the provisional trustee upon the making of a bankruptcy order
在破產令後，破產管理署署長即成為破產人財產的暫行受託人
- Where the assets of the bankrupt are likely to be not more than \$200,000, the Official Receiver may appoint another provisional trustee in his place
如破產人財產總值可能不超過\$200,000，破產管理署署長可以委任其他人代替他出任暫行受託人

BANKRUPTCY (AMENDMENT) BILL (2)

破產(修訂)條例草案 (2)

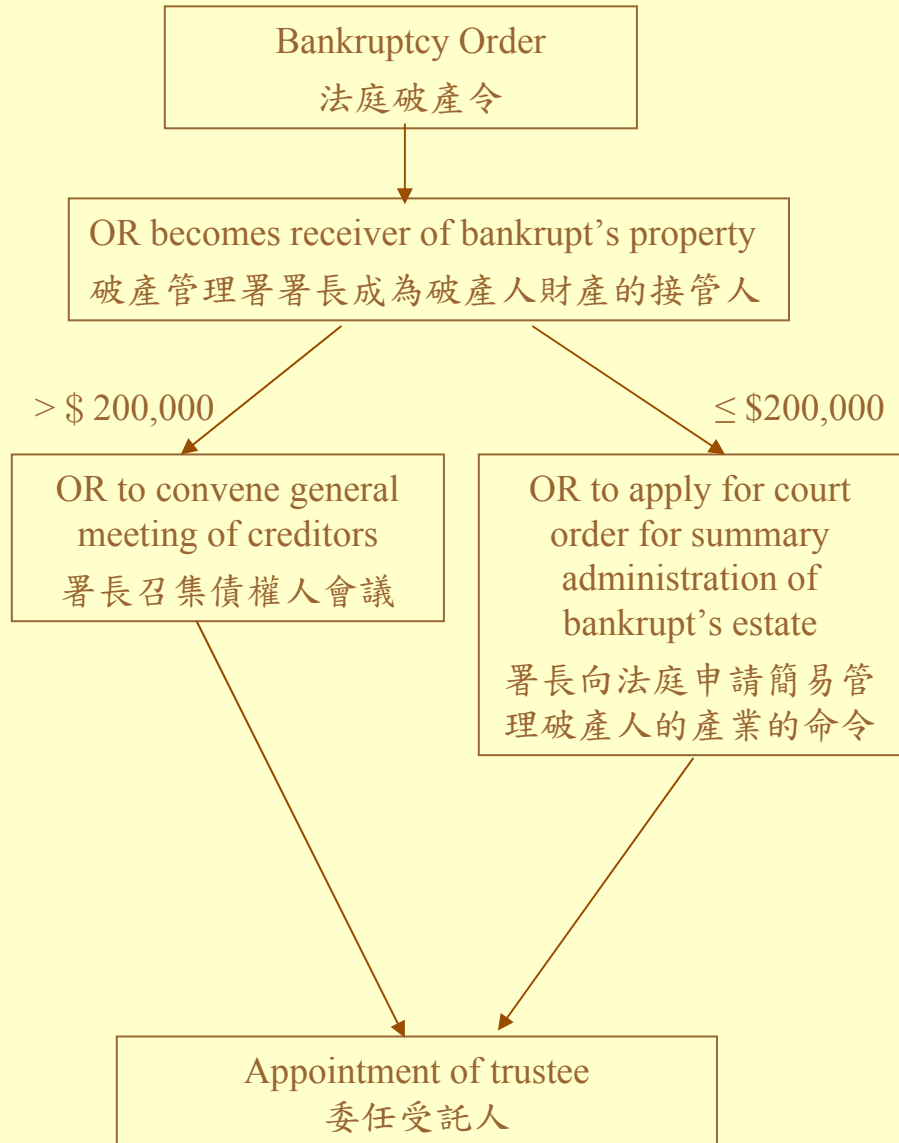
- The provisional trustee has the power to take possession of the bankrupt's property or sell perishable goods
暫行受託人有權接管破產人的財產，以及出售易毀的貨品
- The provisional trustee may apply to court for an order for summary administration of the bankrupt's estate
暫行受託人可以向法庭申請簡易管理破產人的產業的命令
- Upon the court order, the provisional trustee shall be the trustee
法庭作出命令後，暫行受託人便成為受託人

BANKRUPTCY (AMENDMENT) BILL (3)

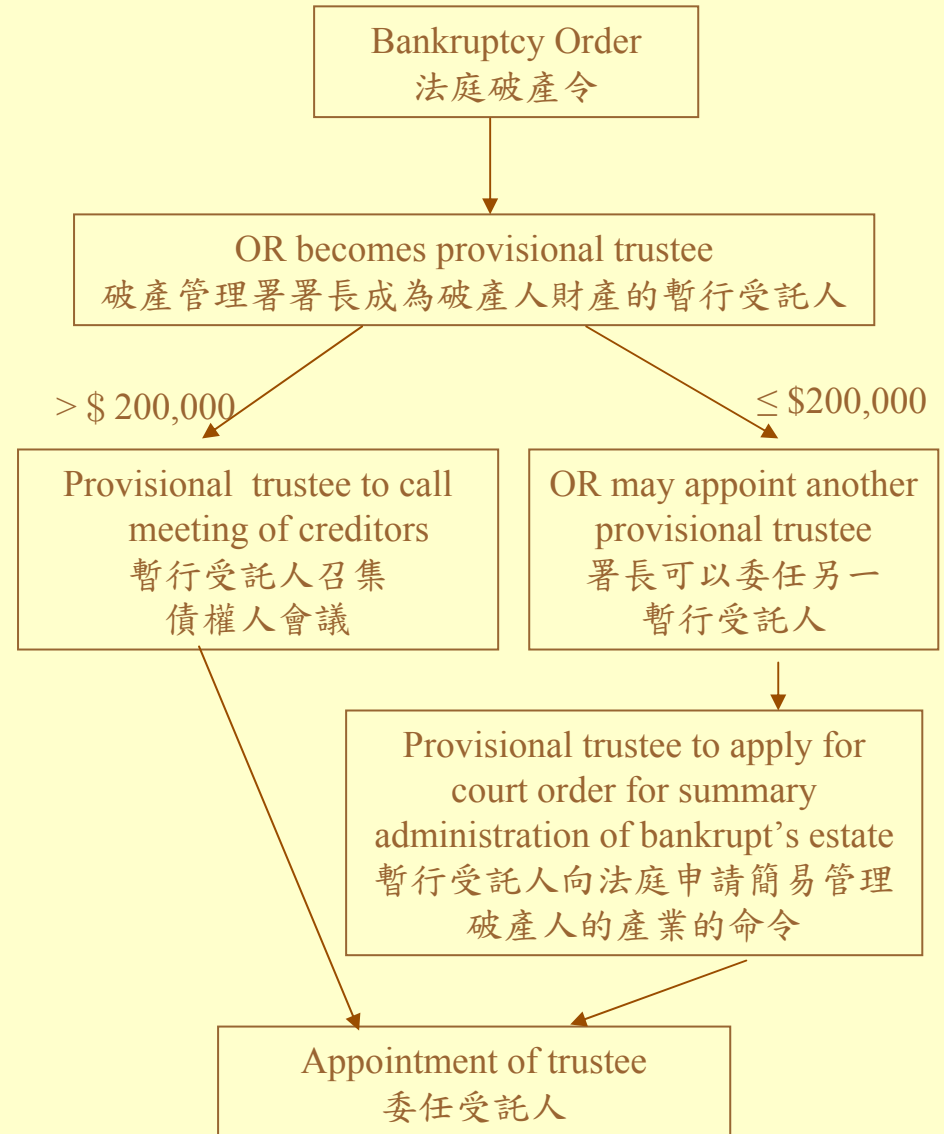
破產(修訂)條例草案 (3)

- The trustee shall administer the bankrupt's estate in accordance with the Bankruptcy Ordinance, subject to the control of the court and the Official Receiver
受託人須根據《破產條例》管理破產人的產業，並受法庭及破產管理署署長管制
- Private sector insolvency practitioners appointed by the Official Receiver will be paid from the assets of the bankrupt's estate
獲破產管理署署長委任處理外判案件的私營清盤從業員，會從破產人產業的資產中獲支付酬金
- Where the bankrupt's assets are likely to exceed \$200,000, appointment of trustee through resolution of general meeting of creditors remain unchanged
如破產人的財產價值可能超過\$200,000，仍然由債權人會議決定委任受託人

MAIN STAGES OF BANKRUPTCY (Present) 破產的主要程序(現行)



MAIN STAGES OF BANKRUPTCY (After Bill enacted) 破產的主要程序(草案通過後)



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