

(Added Pub. L. 104-88, title III, §302(1), Dec. 29, 1995, 109 Stat. 943.)

#### PRIOR PROVISIONS

A prior section 1162, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641, defined "Commission", prior to repeal by Pub. L. 104-88, title III, §302(1), Dec. 29, 1995, 109 Stat. 943.

#### EFFECTIVE DATE

Section effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as a note under section 701 of Title 49, Transportation.

### § 1163. Appointment of trustee

As soon as practicable after the order for relief the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustees in the case. The United States trustee shall appoint one of such persons to serve as trustee in the case.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641; Pub. L. 99-554, title II, §226, Oct. 27, 1986, 100 Stat. 3102.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1163 of the House amendment represents a compromise between the House bill and Senate amendment with respect to the appointment of a trustee in a railroad reorganization. As soon as practicable after the order for relief, the Secretary of Transportation is required to submit a list of five disinterested persons who are qualified to serve as trustee and the court will than appoint one trustee from the list to serve as trustee in the case.

The House amendment deletes section 1163 of the Senate amendment in order to cover intrastate railroads in a case under subchapter IV of chapter 11. The bill does not confer jurisdiction on the Interstate Commerce Commission with respect to intrastate railroads.

##### SENATE REPORT NO. 95-989

[Section 1166 (enacted as section 1163)] Requires the court to appoint a trustee in every case. Since the trustee may employ whatever help he needs, multiple trusteeships are unnecessary and add to the cost of administration. The present requirement of section 77(c)(1) [section 205(c)(1) of former title 11] that the trustee be approved by the Interstate Commerce Commission is unnecessary, since the trustee will be selected either from the panel established under section 606(f) of title 28, or someone certified by the Director of the Administrative Office of the United States Courts as qualified to become a member of that panel.

##### HOUSE REPORT NO. 95-595

[Section 1162] This section [enacted as section 1163] requires the appointment of an independent trustee in a railroad reorganization case. The court may appoint one or more disinterested persons to serve as trustee in the case.

#### AMENDMENTS

1986—Pub. L. 99-554 amended section generally, substituting "relief the Secretary" for "relief, the Secretary" and "The United States trustee shall appoint" for "The court shall appoint".

##### EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

### § 1164. Right to be heard

The Board, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and may appear and be heard on any issue in a case under this chapter, but may not appeal from any judgment, order, or decree entered in the case.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641; Pub. L. 104-88, title III, §302(2), Dec. 29, 1995, 109 Stat. 943.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1164 of the Senate amendment is deleted as a matter to be left to the Rules of Bankruptcy Procedure. It is anticipated that the rules will require a petition in a railroad reorganization to be filed with the Interstate Commerce Commission and the Secretary of Transportation in a case concerning an interstate railroad.

Section 1164 of the House amendment is derived from section 1163 of the House bill. The section makes clear that the Interstate Commerce Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and appear and be heard on any issue in a case under subchapter IV of chapter 11, but may not appeal from any judgment, order, or decree in the case. As under section 1109 of title 11, such intervening parties are not parties in interest.

##### HOUSE REPORT NO. 95-595

[Section 1163] This section [enacted as section 1164] gives the same right to raise, and appear and be heard on, any issue in a railroad reorganization case to the Interstate Commerce Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor as is given to the SEC and indenture trustees under section 1109 in ordinary reorganization cases. The right of appeal is denied the ICC, the Department of Transportation, and State and local regulatory agencies, the same as it is denied the SEC.

#### AMENDMENTS

1995—Pub. L. 104-88 substituted "Board" for "Commission".

##### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

### § 1165. Protection of the public interest

In applying sections 1166, 1167, 1169, 1170, 1171, 1172, 1173, and 1174 of this title, the court and the trustee shall consider the public interest in addition to the interests of the debtor, creditors, and equity security holders.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1165 of the House amendment represents a modification of sections 1165 and 1167 of the Senate amendment requiring the court and the trustee to consider the broad, general public interest in addition to the interests of the debtor, creditors, and equity security holders in applying specific sections of the subchapter.

##### SENATE REPORT NO. 95-989

Section 1165 requires the court, in consideration of the relief to be granted upon the filing of an involun-