

Stat. 151; Pub. L. 107-170, §1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, §10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, §2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, §2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, §2(a), Oct. 25, 2004, 118 Stat. 1749; Pub. L. 109-8, title X, §1001(a)(1), (c), Apr. 20, 2005, 119 Stat. 185, 186.)

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding this section.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-369, §2(b), Oct. 25, 2004, 118 Stat. 1749, provided that: “The amendments made by subsection (a) [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] are deemed to have taken effect on January 1, 2004.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-73, §2(b), Aug. 15, 2003, 117 Stat. 891, provided that: “The amendments made by subsection (a) [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] take effect on July 1, 2003.”

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-377, §2(b), Dec. 19, 2002, 116 Stat. 3115, provided that: “The amendments made by subsection (a) [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on January 1, 2003.”

Pub. L. 107-171, title X, §10814(b), May 13, 2002, 116 Stat. 532, provided that: “The amendments made by subsection (a) [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on June 1, 2002.”

Pub. L. 107-170, §2, May 7, 2002, 116 Stat. 133, provided that: “The amendments made by section 1 [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on October 1, 2001.”

EFFECTIVE DATE OF 2001 AMENDMENTS

Pub. L. 107-17, §2, June 26, 2001, 115 Stat. 151, provided that: “The amendments made by section 1 [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on June 1, 2001.”

Pub. L. 107-8, §2, May 11, 2001, 115 Stat. 10, provided that: “The amendments made by section 1 [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on July 1, 2000.”

EFFECTIVE DATE OF 1999 AMENDMENTS

Pub. L. 106-70, §2, Oct. 9, 1999, 113 Stat. 1031, provided that: “The amendments made by section 1 [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on October 1, 1999.”

Pub. L. 106-5, §2, Mar. 30, 1999, 113 Stat. 9, provided that: “The amendments made by section 1 [amending this section and sections 1202 to 1208 and 1221 to 1231 of this title and amending provisions set out as a note under this section] shall take effect on April 1, 1999.”

EFFECTIVE DATE

Chapter effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

REPEAL, REENACTMENT, AND TERMINATION OF CHAPTER

Pub. L. 109-8, title X, §1001(a), (b), Apr. 20, 2005, 119 Stat. 185, 186, provided that:

“(a) REENACTMENT.—

“(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) [set out as a note below], and as in effect on June 30, 2005, is hereby reenacted.

“(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on July 1, 2005.

“(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act [see Tables for classification].”

Pub. L. 105-277, div. C, title I, §149, Oct. 21, 1998, 112 Stat. 2681-610, as amended by Pub. L. 106-5, §1, Mar. 30, 1999, 113 Stat. 9; Pub. L. 106-70, §1, Oct. 9, 1999, 113 Stat. 1031; Pub. L. 107-8, §1, May 11, 2001, 115 Stat. 10; Pub. L. 107-17, §1, June 26, 2001, 115 Stat. 151; Pub. L. 107-170, §1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, §10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, §2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, §2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, §2(a), Oct. 25, 2004, 118 Stat. 1749, provided that:

“(a) Chapter 12 of title 11 of the United States Code, as in effect on December 31, 2003, is hereby reenacted for the period beginning on January 1, 2004, and ending on July 1, 2005.

“(b) All cases commenced or pending under chapter 12 of title 11, United States Code, as reenacted under subsection (a), and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter were continued in effect after July 1, 2005. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such cases, matters, and proceedings as if such chapter were continued in effect after July 1, 2005.”

Chapter was repealed Oct. 1, 1998, except that cases commenced or pending under this chapter, and all matters and proceedings in or relating to such cases, were to be conducted and determined as if this chapter had not been repealed, and substantive rights of parties in connection with such cases, matters, and proceedings were to continue to be governed under the laws applicable to such cases, matters, and proceedings as if this chapter had not been repealed, see section 302(f) of Pub. L. 99-554, as amended, formerly set out in an Effective Date of 1986 Amendment note under section 581 of Title 28, Judiciary and Judicial Procedure.

§ 1202. Trustee

(a) If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under this chapter and if such individual qualifies as a trustee under section 322 of this title, then such individual shall serve as trustee in any case filed under this chapter. Otherwise, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case if necessary.

(b) The trustee shall—

(1) perform the duties specified in sections 704(a)(2), 704(a)(3), 704(a)(5), 704(a)(6), 704(a)(7), and 704(a)(9) of this title;

(2) perform the duties specified in section 1106(a)(3) and 1106(a)(4) of this title if the court, for cause and on request of a party in interest, the trustee, or the United States trustee, so orders;

(3) appear and be heard at any hearing that concerns—

- (A) the value of property subject to a lien;
- (B) confirmation of a plan;
- (C) modification of the plan after confirmation; or
- (D) the sale of property of the estate;

(4) ensure that the debtor commences making timely payments required by a confirmed plan;

(5) if the debtor ceases to be a debtor in possession, perform the duties specified in sections 704(a)(8), 1106(a)(1), 1106(a)(2), 1106(a)(6), 1106(a)(7), and 1203; and

(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).

(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

(B)(i) provide written notice to such State child support enforcement agency of such claim; and

(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

(i) the granting of the discharge;

(ii) the last recent known address of the debtor;

(iii) the last recent known name and address of the debtor's employer; and

(iv) the name of each creditor that holds a claim that—

(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

(II) was reaffirmed by the debtor under section 524(c).

(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.

(Added and amended Pub. L. 99-554, title II, §§ 227, 255, title III, § 302(f), Oct. 27, 1986, 100 Stat. 3103, 3106, 3124; Pub. L. 103-65, § 1, Aug. 6, 1993, 107 Stat. 311; Pub. L. 105-277, div. C, title I, § 149(a), Oct. 21, 1998, 112 Stat. 2681-610; Pub. L. 106-5, § 1(1), (2), Mar. 30, 1999, 113 Stat. 9; Pub. L. 106-70,

§ 1, Oct. 9, 1999, 113 Stat. 1031; Pub. L. 107-8, § 1, May 11, 2001, 115 Stat. 10; Pub. L. 107-17, § 1, June 26, 2001, 115 Stat. 151; Pub. L. 107-170, § 1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, § 10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, § 2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, § 2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, § 2(a), Oct. 25, 2004, 118 Stat. 1749; Pub. L. 109-8, title II, § 219(c), title X, § 1001(a)(1), (c), Apr. 20, 2005, 119 Stat. 57, 185, 186; Pub. L. 111-327, § 2(a)(38), Dec. 22, 2010, 124 Stat. 3561.)

REFERENCES IN TEXT

Sections 464 and 466 of the Social Security Act, referred to in subsec. (c)(1)(A)(i), are classified to sections 664 and 666, respectively, of Title 42, The Public Health and Welfare.

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding section 1201 of this title.

AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-327, § 2(a)(38)(A), substituted “704(a)(2), 704(a)(3), 704(a)(5), 704(a)(6), 704(a)(7), and 704(a)(9)” for “704(2), 704(3), 704(5), 704(6), 704(7), and 704(9)”.

Subsec. (b)(5). Pub. L. 111-327, § 2(a)(38)(B), substituted “704(a)(8)” for “704(8)”.

2005—Subsec. (b)(6). Pub. L. 109-8, § 219(c)(1), added par. (6).

Subsec. (c). Pub. L. 109-8, § 219(c)(2), added subsec. (c). 1986—Subsecs. (c), (d). Pub. L. 99-554, § 227, struck out subsecs. (c) and (d) which read as follows:

“(c) If the number of cases under this chapter commenced in a particular judicial district so warrants, the court may appoint one or more individuals to serve as standing trustee for such district in cases under this chapter.

“(d)(1) A court that has appointed an individual under subsection (a) of this section to serve as standing trustee in cases under this chapter shall set for such individual—

“(A) a maximum annual compensation not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

“(B) a percentage fee not to exceed the sum of—

“(i) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed \$450,000; and

“(ii) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds \$450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

“(2) Such individual shall collect such percentage fee from all payments under plans in the cases under this chapter for which such individual serves as standing trustee. Such individual shall pay annually to the Treasury—

“(A) any amount by which the actual compensation received by such individual exceeds five percent of all such payments made under plans in cases under this chapter for which such individual serves as standing trustee; and

“(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

“(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

“(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.”

See section 586(b) and (e) of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 219(c) of Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 27, 1986, and before the amendment by section 227 of Pub. L. 99-554, see section 302(c)(2) of Pub. L. 99-554, set out as an Effective Date of 1986 Amendment note under section 581 of Title 28, Judiciary and Judicial Procedure.

Effective date and applicability of amendment by section 227 of Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554.

REFERENCES IN SUBSECTION (a) TEMPORARILY DEEMED TO BE REFERENCES TO OTHER PROVISIONS

Until the amendments made by subtitle A (§§201 to 231) of title II of Pub. L. 99-554 become effective in a district and apply to a case, in subsec. (a) of this section—

- (1) the first two references to the United States trustee are deemed to be references to the court, and
- (2) any reference to section 586(b) of Title 28, Judiciary and Judicial Procedure, is deemed to be a reference to subsec. (c) of this section, see section 302(c)(3)(B), (d), (e) of Pub. L. 99-554, set out as an Effective Date note under section 581 of Title 28.

§ 1203. Rights and powers of debtor

Subject to such limitations as the court may prescribe, a debtor in possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties specified in paragraphs (3) and (4) of section 1106(a), of a trustee serving in a case under chapter 11, including operating the debtor's farm or commercial fishing operation.

(Added and amended Pub. L. 99-554, title II, §255, title III, §302(f), Oct. 27, 1986, 100 Stat. 3107, 3124; Pub. L. 103-65, §1, Aug. 6, 1993, 107 Stat. 311; Pub. L. 105-277, div. C, title I, §149(a), Oct. 21, 1998, 112 Stat. 2681-610; Pub. L. 106-5, §1(1), (2), Mar. 30, 1999, 113 Stat. 9; Pub. L. 106-70, §1, Oct. 9, 1999, 113 Stat. 1031; Pub. L. 107-8, §1, May 11, 2001, 115 Stat. 10; Pub. L. 107-17, §1, June 26, 2001, 115 Stat. 151; Pub. L. 107-170, §1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, §10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, §2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, §2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, §2(a), Oct. 25, 2004, 118 Stat. 1749; Pub. L. 109-8, title X, §§1001(a)(1), (c), 1007(c)(2), Apr. 20, 2005, 119 Stat. 185, 186, 188.)

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding section 1201 of this title.

AMENDMENTS

2005—Pub. L. 109-8, §1007(c)(2), inserted “or commercial fishing operation” after “farm”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1007(c)(2) of Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable

with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

§ 1204. Removal of debtor as debtor in possession

(a) On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor in possession for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case.

(b) On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor in possession.

(Added and amended Pub. L. 99-554, title II, §255, title III, §302(f), Oct. 27, 1986, 100 Stat. 3107, 3124; Pub. L. 103-65, §1, Aug. 6, 1993, 107 Stat. 311; Pub. L. 105-277, div. C, title I, §149(a), Oct. 21, 1998, 112 Stat. 2681-610; Pub. L. 106-5, §1(1), (2), Mar. 30, 1999, 113 Stat. 9; Pub. L. 106-70, §1, Oct. 9, 1999, 113 Stat. 1031; Pub. L. 107-8, §1, May 11, 2001, 115 Stat. 10; Pub. L. 107-17, §1, June 26, 2001, 115 Stat. 151; Pub. L. 107-170, §1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, §10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, §2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, §2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, §2(a), Oct. 25, 2004, 118 Stat. 1749; Pub. L. 109-8, title X, §1001(a)(1), (c), Apr. 20, 2005, 119 Stat. 185, 186.)

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding section 1201 of this title.

§ 1205. Adequate protection

(a) Section 361 does not apply in a case under this chapter.

(b) In a case under this chapter, when adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of property securing a claim or of an entity's ownership interest in property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of property securing a claim or of an entity's ownership interest in property;

(3) paying to such entity for the use of farmland the reasonable rent customary in the community where the property is located, based upon the rental value, net income, and earning capacity of the property; or

(4) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will adequately protect the value of property securing a claim or of such entity's ownership interest in property.