

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.

(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.

§ 1206. Sales free of interests

After notice and a hearing, in addition to the authorization contained in section 363(f), the

trustee in a case under this chapter may sell property under section 363(b) and (c) free and clear of any interest in such property of an entity other than the estate if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel), except that the proceeds of such sale shall be subject to such interest.

(Added and amended Pub. L. 99-554, title II, §255, title III, §302(f), Oct. 27, 1986, 100 Stat. 3108, 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)(3), 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)(3), substituted “if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)” for “if the property is farmland or farm equipment”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1007(c)(3) 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.

§ 1207. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 of this title, whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 of this title, whichever occurs first.

(b) Except as provided in section 1204, a confirmed plan, or an order confirming a plan, the debtor shall remain in possession of all property of the estate.

(Added and amended Pub. L. 99-554, title II, §255, title III, §302(f), Oct. 27, 1986, 100 Stat. 3108, 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,