

States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act [Apr. 20, 2005].

“(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

“(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

“(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

“(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

“(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.”

APPLICATION TO ALL STANDING TRUSTEES

Pub. L. 101–509, title V, § 529 [title I, § 110(b)], Nov. 5, 1990, 104 Stat. 1427, 1452, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–54 [Pub. L. 99–554]; 100 Stat. 3121) [set out in an Effective Date of 1986 Amendment note under section 581 of this title] apply.”

§ 587. Salaries

Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.

(Added Pub. L. 95–598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664; amended Pub. L. 99–554, title I, § 114(a), Oct. 27, 1986, 100 Stat. 3093.)

CODIFICATION

Section 408(c) of Pub. L. 95–598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99–554. See note set out preceding section 581 of this title.

AMENDMENTS

1986—Pub. L. 99–554 amended section generally. Prior to amendment, section read as follows: “The Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of 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.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99–554, set out as a note under section 581 of this title.

§ 588. Expenses

Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

(Added Pub. L. 95–598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

CODIFICATION

Section 408(c) of Pub. L. 95–598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99–554. See note set out preceding section 581 of this title.

§ 589. Staff and other employees

The United States trustee may employ staff and other employees on approval of the Attorney General.

(Added Pub. L. 95–598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

CODIFICATION

Section 408(c) of Pub. L. 95–598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99–554. See note set out preceding section 581 of this title.

TEMPORARY SUSPENSION OF LIMITATION ON APPOINTMENTS

Pub. L. 99–554, title I, § 114(b), Oct. 27, 1986, 100 Stat. 3093, provided that: “During the period beginning on the effective date of this Act [see section 302 of Pub. L. 99–554, set out as an Effective Date note under section 581 of this title] and ending on October 1, 1989, the provisions of title 5 of the United States Code governing appointments in the competitive service shall not apply with respect to appointments under section 589 of title 28, United States Code.”

§ 589a. United States Trustee System Fund

(a) There is hereby established in the Treasury of the United States a special fund to be known as the “United States Trustee System Fund” (hereinafter in this section referred to as the “Fund”). Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operations of United States trustees—

- (1) salaries and related employee benefits;
- (2) travel and transportation;
- (3) rental of space;
- (4) communication, utilities, and miscellaneous computer charges;
- (5) security investigations and audits;
- (6) supplies, books, and other materials for legal research;
- (7) furniture and equipment;
- (8) miscellaneous services, including those obtained by contract; and
- (9) printing.

(b) For the purpose of recovering the cost of services of the United States Trustee System,

there shall be deposited as offsetting collections to the appropriation “United States Trustee System Fund”, to remain available until expended, the following—

(1)(A) 40.46 percent of the fees collected under section 1930(a)(1)(A); and

(B) 28.33 percent of the fees collected under section 1930(a)(1)(B);

(2) 48.89 percent of the fees collected under section 1930(a)(3) of this title;

(3) one-half of the fees collected under section 1930(a)(4) of this title;

(4) one-half of the fees collected under section 1930(a)(5) of this title;

(5) 100 percent of the fees collected under section 1930(a)(6) of this title;

(6) three-fourths of the fees collected under the last sentence of section 1930(a) of this title;

(7) the compensation of trustees received under section 330(d) of title 11 by the clerks of the bankruptcy courts;

(8) excess fees collected under section 586(e)(2) of this title;

(9) interest earned on Fund investment; and

(10) fines imposed under section 110(l) of title 11, United States Code.

(c) Amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(d) The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed report on the amounts deposited in the Fund and a description of expenditures made under this section.

(e) There are authorized to be appropriated to the Fund for any fiscal year such sums as may be necessary to supplement amounts deposited under subsection (b) for the purposes specified in subsection (a).

(Added Pub. L. 99-554, title I, §115(a), Oct. 27, 1986, 100 Stat. 3094; amended Pub. L. 101-162, title IV, §406(c), Nov. 21, 1989, 103 Stat. 1016; Pub. L. 102-140, title I, §111(b), (c), Oct. 28, 1991, 105 Stat. 795; Pub. L. 103-121, title I, §111(a)(2), (b)(2), (3), Oct. 27, 1993, 107 Stat. 1164; Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37; Pub. L. 104-208, div. A, title I, §101(a) [title I, §109(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-18; Pub. L. 106-113, div. B, §1000(a)(1) [title I, title I, §113], Nov. 29, 1999, 113 Stat. 1535, 1501A-6, 1501A-20; Pub. L. 109-8, title III, §325(b), Apr. 20, 2005, 119 Stat. 99; Pub. L. 109-13, div. A, title VI, §6058(a), May 11, 2005, 119 Stat. 297; Pub. L. 110-161, div. B, title II, §212(a), Dec. 26, 2007, 121 Stat. 1914; Pub. L. 112-121, §3(b), May 25, 2012, 126 Stat. 348.)

CODIFICATION

Amendment by Pub. L. 104-91 is based on section 111(b) and (c) of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104-91.

AMENDMENTS

2012—Subsec. (b)(2). Pub. L. 112-121 substituted “48.89” for “55”.

2007—Subsec. (b)(10). Pub. L. 110-161 added par. (10).

2005—Subsec. (b)(1). Pub. L. 109-8, §325(b)(1), as amended by Pub. L. 109-13, §6058(a), added par. (1) and struck out former par. (1), which read as follows: “27.42 percent of the fees collected under section 1930(a)(1) of this title”.

Subsec. (b)(2). Pub. L. 109-8, §325(b)(2), as amended by Pub. L. 109-13, §6058(a), substituted “55 percent” for “one-half”.

1999—Subsec. (b)(1). Pub. L. 106-113, §1000(a)(1) [title I, §113], substituted “27.42 percent” for “23.08 percent”.

Subsec. (b)(9). Pub. L. 106-113, §1000(a)(1) [title I], added par. (9).

1996—Pub. L. 104-208 reenacted section catchline without change and amended text generally, revising and restating as subsecs. (a) to (e) provisions of former subsecs. (a) to (f).

Subsec. (b)(5). Pub. L. 104-91, as amended by Pub. L. 104-99, inserted “until a reorganization plan is confirmed” before semicolon.

Subsec. (f)(2). Pub. L. 104-91, as amended by Pub. L. 104-99, substituted “until a reorganization plan is confirmed,” for period at end.

Subsec. (f)(3). Pub. L. 104-91, as amended by Pub. L. 104-99, added par. (3).

1993—Subsec. (b)(1). Pub. L. 103-121, §111(a)(2), substituted “23.08 per centum” for “one-fourth”.

Subsec. (b)(2). Pub. L. 103-121, §111(b)(2), substituted “37.5 per centum” for “50 per centum”.

Subsec. (f)(1). Pub. L. 103-121, §111(b)(3), substituted “12.5 per centum” for “16.7 per centum”.

1991—Subsec. (b)(2). Pub. L. 102-140, §111(b)(1), substituted “50 per centum” for “three-fifths”.

Subsec. (b)(5). Pub. L. 102-140, §111(b)(2), substituted “60 per centum” for “all”.

Subsec. (f). Pub. L. 102-140, §111(c), added subsec. (f).

1989—Subsec. (b)(1). Pub. L. 101-162 substituted “one-fourth” for “one-third”.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-121, §3(e), May 25, 2012, 126 Stat. 349, provided that: “This section [amending this section and section 1930 of this title and enacting and amending provisions set out as notes under section 1931 of this title] and the amendments made by this section shall take effect 180 days after the date of enactment of this Act [May 25, 2012].”

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109-13, div. A, title VI, §6058(b), May 11, 2005, 119 Stat. 297, provided that: “This section [amending this section and section 1930 of this title, enacting provisions set out as a note under this section, and amending provisions set out as notes under this section and sections 1930 and 1931 of this title] and the amendment made by this section shall take effect immediately after the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 [Pub. L. 109-8, approved Apr. 20, 2005].”

Pub. L. 109-8, title III, §325(d), Apr. 20, 2005, 119 Stat. 99, which provided that the amendment made by Pub. L. 109-8, §325(b), (c), would be effective during the 2-year period beginning on Apr. 20, 2005, was omitted in the general amendment of section 325 of Pub. L. 109-8 by Pub. L. 109-13, div. A, title VI, §6058(a), May 11, 2005, 119 Stat. 297. See note above.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, §1000(a)(1) [title I, §113], Nov. 29, 1999, 113 Stat. 1535, 1501A-20, provided that the amendment made by section 1000(a)(1) [title I, §113] is effective 30 days after Nov. 29, 1999.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title I, §109(c)], Sept. 30, 1996, 110 Stat. 3009, 3009-19, provided that: “Notwithstanding any other provision of law or of this Act, the amendments to 28 U.S.C. 589a made by subsection (b) of this section shall take effect upon enactment of this Act [Sept. 30, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-121, title I, §111(a), Oct. 27, 1993, 107 Stat. 1164, provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

Pub. L. 103-121, title I, §111(b), Oct. 27, 1993, 107 Stat. 1164, provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-140, title I, §111, Oct. 28, 1991, 105 Stat. 795, provided that the amendment made by that section is effective 60 days after Oct. 28, 1991.

EFFECTIVE DATE

Section effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

§ 589b. Bankruptcy data

(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

(3) appropriate privacy concerns and safeguards.

(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

(1) information about the length of time the case was pending;

(2) assets abandoned;

(3) assets exempted;

(4) receipts and disbursements of the estate;

(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

(6) claims asserted;

(7) claims allowed; and

(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

(2) length of time the case has been pending;

(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

(Added Pub. L. 109-8, title VI, §602(a), Apr. 20, 2005, 119 Stat. 120.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (a), see Effective Date note set out below.

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as an Effective Date of 2005 Amendment note under section 101 of Title 11.

CHAPTER 40—INDEPENDENT COUNSEL

Sec.

591. Applicability of provisions of this chapter.

592. Preliminary investigation and application for appointment of an independent counsel.

593. Duties of the division of the court.

594. Authority and duties of an independent counsel.

595. Congressional oversight.

596. Removal of an independent counsel; termination of office.