

quirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

(A) any actual damages sustained by the debtor as a result of the violation; and

(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.

(Added Pub. L. 109-8, title I, §106(e)(1), Apr. 20, 2005, 119 Stat. 38; amended Pub. L. 111-327, §2(a)(8), Dec. 22, 2010, 124 Stat. 3558.)

AMENDMENTS

2010—Subsec. (d)(1)(E). Pub. L. 111-327 substituted “; and” for period at end and realigned margin.

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM

Pub. L. 109-8, title I, §105, Apr. 20, 2005, 119 Stat. 36, provided that:

“(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ‘Director’) shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

“(b) TEST.—

“(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

“(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act [Apr. 20, 2005], such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

“(c) EVALUATION.—

“(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

“(A) the financial management training curriculum and materials developed under subsection (a); and

“(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

“(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.”

§ 112. Prohibition on disclosure of name of minor children

The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.

(Added Pub. L. 109-8, title II, §233(a), Apr. 20, 2005, 119 Stat. 74.)

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

CHAPTER 3—CASE ADMINISTRATION

SUBCHAPTER I—COMMENCEMENT OF A CASE

- Sec.
- 301. Voluntary cases.
- 302. Joint cases.
- 303. Involuntary cases.
- [304. Repealed.]
- 305. Abstention.
- 306. Limited appearance.
- 307. United States trustee.
- 308. Debtor reporting requirements.

SUBCHAPTER II—OFFICERS

- 321. Eligibility to serve as trustee.
- 322. Qualification of trustee.
- 323. Role and capacity of trustee.
- 324. Removal of trustee or examiner.
- 325. Effect of vacancy.
- 326. Limitation on compensation of trustee.
- 327. Employment of professional persons.
- 328. Limitation on compensation of professional persons.
- 329. Debtor's transactions with attorneys.
- 330. Compensation of officers.
- 331. Interim compensation.
- 332. Consumer privacy ombudsman.
- 333. Appointment of patient care ombudsman.

SUBCHAPTER III—ADMINISTRATION

- 341. Meetings of creditors and equity security holders.
- 342. Notice.
- 343. Examination of the debtor.
- 344. Self-incrimination; immunity.
- 345. Money of estates.
- 346. Special provisions related to the treatment of State and local taxes.
- 347. Unclaimed property.
- 348. Effect of conversion.
- 349. Effect of dismissal.
- 350. Closing and reopening cases.
- 351. Disposal of patient records.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

- 361. Adequate protection.
- 362. Automatic stay.
- 363. Use, sale, or lease of property.
- 364. Obtaining credit.
- 365. Executory contracts and unexpired leases.
- 366. Utility service.

AMENDMENTS

2010—Pub. L. 111-327, §2(a)(49), Dec. 22, 2010, 124 Stat. 3562, inserted “patient care” before “ombudsman” in item 333.

2005—Pub. L. 109-8, title II, §232(c), title IV, §434(a)(2), title VII, §719(a)(2), title VIII, §802(d)(4), title XI, §§1102(b), 1104(a)(2), Apr. 20, 2005, 119 Stat. 74, 111, 133, 146, 190, 192, added items 308, 332, 333, and 351, substituted “Special provisions related to the treatment of State and local taxes” for “Special tax provisions” in item 346, and struck out item 304 “Cases ancillary to foreign proceedings”.

1986—Pub. L. 99-554, title II, §205(b), Oct. 27, 1986, 100 Stat. 3098, added item 307.

SUBCHAPTER I—COMMENCEMENT OF A CASE

§ 301. Voluntary cases

(a) A voluntary case under a chapter of this title is commenced by the filing with the bank-

ruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter.

(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2558; Pub. L. 109-8, title V, §501(b), Apr. 20, 2005, 119 Stat. 118.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Sections 301, 302, 303, and 304 are all modified in the House amendment to adopt an idea contained in sections 301 and 303 of the Senate amendment requiring a petition commencing a case to be filed with the bankruptcy court. The exception contained in section 301 of the Senate bill relating to cases filed under chapter 9 is deleted. Chapter 9 cases will be handled by a bankruptcy court as are other title 11 cases.

SENATE REPORT NO. 95-989

Section 301 specifies the manner in which a voluntary bankruptcy case is commenced. The debtor files a petition under this section under the particular operative chapter of the bankruptcy code under which he wishes to proceed. The filing of the petition constitutes an order for relief in the case under that chapter. The section contains no change from current law, except for the use of the phrase “order for relief” instead of “adjudication.” The term adjudication is replaced by a less pejorative phrase in light of the clear power of Congress to permit voluntary bankruptcy without the necessity for an adjudication, as under the 1898 act [former title 11], which was adopted when voluntary bankruptcy was a concept not thoroughly tested.

AMENDMENTS

2005—Pub. L. 109-8 designated existing provisions as subsec. (a), struck out “The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.” at end, and added subsec. (b).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by 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.

§ 302. Joint cases

(a) A joint case under a chapter of this title is commenced by the filing with the bankruptcy court of a single petition under such chapter by an individual that may be a debtor under such chapter and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under such chapter.

(b) After the commencement of a joint case, the court shall determine the extent, if any, to which the debtors' estates shall be consolidated.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2558.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

A joint case is a voluntary bankruptcy case concerning a wife and husband. Under current law, there is no explicit provision for joint cases. Very often, however, in the consumer debtor context, a husband and wife are jointly liable on their debts, and jointly hold most of their property. A joint case will facilitate consolidation of their estates, to the benefit of both the debtors