Subsection (c) extends the statute of limitations for creditors. Thus, if a creditor is stayed from commencing or continuing an action against the debtor because of the bankruptcy case, then the creditor is permitted an additional 30 days after notice of the event by which the stay is terminated, whether that event be relief from the automatic stay under proposed 11 U.S.C. 362 or 1301, the closing of the bankruptcy case (which terminates the stay), or the exception from discharge of the debts on which the creditor claims.

In the case of Federal tax liabilities, the Internal Revenue Code [title 26] suspends the statute of limitations on a tax liability of a taxpayer from running while his assets are in the control or custody of a court and for 6 months thereafter (sec. 6503(b) of the Code [title 26]). The amendment applies this rule in a title 11 proceeding. Accordingly, the statute of limitations on collection of a nondischargeable Federal tax liability of a debtor will resume running after 6 months following the end of the period during which the debtor's assets are in the control or custody of the bankruptcy court. This rule will provide the Internal Revenue Service adequate time to collect nondischargeable taxes following the end of the title 11 proceedings.

AMENDMENTS

2005—Subsec. (c)(2). Pub. L. 109–8 substituted ''922, 1201, or'' for ''922, or''.

1986—Subsec. (b). Pub. L. 99–554, § 257(b)(1), inserted reference to section 1201 of this title.

Subsec. (c). Pub. L. 99–554, § 257(b)(2)(A), inserted reference to section 1201 of this title in provisions preceding par. (1).

Subsec. (c)(2). Pub. L. 99–554, § 257(b)(2)(B), which directed the amendment of subsec. (c) by inserting ''1201,'' after ''722,'' could not be executed because ''722,'' did not appear in text.

1984—Subsec. (a). Pub. L. 98–353, § 424(b), inserted ''nonbankruptcy'' after ''applicable'' and ''entered in a'' in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98–353, § 424(a), substituted ''or'' for ''and'' after the semicolon.

Subsec. (b). Pub. L. 98–353, § 424(b), inserted ''nonbankruptcy'' after ''applicable'' and ''entered in a'' in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98–353, § 424(a), substituted ''or'' for ''and'' after the semicolon.

Subsec. (c). Pub. L. 98–353, § 424(b), inserted ''nonbankruptcy'' after ''applicable'' and ''entered in a'' in provisions preceding par. (1).

Subsec. (c)(1). Pub. L. 98–353, § 424(a), substituted ''or'' for ''and'' after the semicolon.

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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–554 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.

§ 109. Who may be a debtor

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or

(3)(A) a foreign insurance company, engaged in such business in the United States; or

(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978) in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity—

(1) is a municipality;

(2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent;

(4) desires to effect a plan to adjust such debts; and

(5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $250,000 and noncontingent, liquidated, secured debts of less than $750,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than $250,000 and noncontingent, liquidated, secured debts of less than $750,000 may be a debtor under chapter 13 of this title.

(f) Only a family farmer or family fisherman with regular annual income may be a debtor under chapter 12 of this title.

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section other than paragraph (4) of this subsection, an individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 7-day period beginning on the date on which the debtor made that request; and

(iii) is satisfactory to the court.

(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and ''disability'' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2557; Pub. L. 97–320, title VII, §703(d), Oct. 15, 1982, 96 Stat. 1539; Pub. L. 98–353, title III, §§301, 425, July 10, 1984, 98 Stat. 352, 369; Pub. L. 99–554, title II, §253, Oct. 27, 1986, 100 Stat. 3105; Pub. L. 100–597, §2, Nov. 3, 1988, 102 Stat. 3028; Pub. L. 103–394, title I, §108(a), title II, §220, title IV, §402, title V, §501(d)(2), Oct. 22, 1994, 108 Stat. 4111, 4129, 4141, 4143; Pub. L. 106–554, §1(a)(5) [title I, §112(c)(1), (2)], §1(a)(8) [§1(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A–393, 2763A–665; Pub. L. 109–8, title I, §106(a), title VIII, §802(d)(1), title X, §1007(b), title XII, §1204(1), Apr. 20, 2005, 119 Stat. 37, 146, 188, 193; Pub. L. 111–16, §2(1), May 7, 2009, 123 Stat. 1607; Pub. L. 111–327, §2(a)(6), Dec. 22, 2010, 124 Stat. 3557.)

ADJUSTMENT OF DOLLAR AMOUNTS

For adjustment of certain dollar amounts specified in this section, that is not reflected in text, see Adjustment of Dollar Amounts note below.

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 109(b) of the House amendment adopts a provision contained in H.R. 8200 as passed by the House. Railroad liquidations will occur under chapter 11, not chapter 7.

Section 109(c) contains a provision which tracks the Senate amendment as to when a municipality may be a debtor under chapter 11 of title 11. As under the Bankruptcy Act [former title 11], State law authorization and prepetition negotiation efforts are required.

Section 109(e) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment relating to the dollar amounts restricting eligibility to be a debtor under chapter 13 of title 11. The House amendment adheres to the limit of $100,000 placed on unsecured debts in H.R. 8200 as passed by the House. It

adopts a midpoint of $350,000 as a limit on secured claims, a compromise between the level of $500,000 in H.R. 8200 as passed by the House and $200,000 as contained in the Senate amendment.

SENATE REPORT NO. 95–989

This section specifies eligibility to be a debtor under the bankruptcy laws. The first criterion, found in the current Bankruptcy Act section 2a(1) [section 11(a)(1) of former title 11] requires that the debtor reside or have a domicile, a place of business, or property in the United States.

Subsection (b) defines eligibility for liquidation under chapter 7. All persons are eligible except insurance companies, and certain banking institutions. These exclusions are contained in current law. However, the banking institution exception is expanded in light of changes in various banking laws since the current law was last amended on this point. A change is also made to clarify that the bankruptcy laws cover foreign banks and insurance companies not engaged in the banking or insurance business in the United States but having assets in the United States. Banking institutions and insurance companies engaged in business in this country are excluded from liquidation under the bankruptcy laws because they are bodies for which alternate provision is made for their liquidation under various State or Federal regulatory laws. Conversely, when a foreign bank or insurance company is not engaged in the banking or insurance business in the United States, then those regulatory laws do not apply, and the bankruptcy laws are the only ones available for administration of any assets found in United States.

The first clause of subsection (b) provides that a railroad is not a debtor except where the requirements of section 1174 are met.

Subsection (c) [enacted as (d)] provides that only a person who may be a debtor under chapter 7 and a railroad may also be a debtor under chapter 11, but a stockbroker or commodity broker is eligible for relief only under chapter 7. Subsection (d) [enacted as (e)] establishes dollar limitations on the amount of indebtedness that an individual with regular income can incur and yet file under chapter 13.

HOUSE REPORT NO. 95–595

Subsection (c) defines eligibility for chapter 9. Only a municipality that is unable to pay its debts as they mature, and that is not prohibited by State law from proceeding under chapter 9, is permitted to be a chapter 9 debtor. The subsection is derived from Bankruptcy Act § 84 [section 404 of former title 11], with two changes. First, section 84 requires that the municipality be ''generally authorized to file a petition under this chapter by the legislature, or by a governmental officer or organization empowered by State law to authorize the filing of a petition.'' The ''generally authorized'' language is unclear, and has generated a problem for a Colorado Metropolitan District that attempted to use chapter IX [chapter 9 of former title 11] in 1976. The ''not prohibited'' language provides flexibility for both the States and the municipalities involved, while protecting State sovereignty as required by *Ashton v. Cameron County Water District No. 1*, 298 U.S. 513 (1936) [56 S.Ct. 892, 80 L.Ed. 1309, 31 Am.Bankr.Rep.N.S. 96, rehearing denied 57 S.Ct. 5, 299 U.S. 619, 81 L.Ed. 457] and *Bekins v. United States*, 304 U.S. 27 (1938) [58 S.Ct. 811, 82 L.Ed. 1137, 36 Am.Bankr.Rep.N.S. 187, rehearing denied 58 S.Ct. 1043, 1044, 304 U.S. 589, 82 L.Ed. 1549].

The second change deletes the four prerequisites to filing found in section 84 [section 404 of former title 11]. The prerequisites require the municipality to have worked out a plan in advance, to have attempted to work out a plan without success, to fear that a creditor will attempt to obtain a preference, or to allege that prior negotiation is impracticable. The loopholes in those prerequisites are larger than the requirement itself. It was a compromise from pre-1976 chapter IX [chapter 9 of former title 11] under which a municipality could file only if it had worked out an adjustment plan in advance. In the meantime, chapter IX protection was unavailable. There was some controversy at the time of the enactment of current chapter IX concerning deletion of the pre-negotiation requirement. It was argued that deletion would lead to a rash of municipal bankruptcies. The prerequisites now contained in section 84 were inserted to assuage that fear. They are largely cosmetic and precatory, however, and do not offer any significant deterrent to use of chapter IX. Instead, other factors, such as a general reluctance on the part of any debtor, especially a municipality, to use the bankruptcy laws, operates as a much more effective deterrent against capricious use.

Subsection (d) permits a person that may proceed under chapter 7 to be a debtor under chapter 11, Reorganization, with two exceptions. Railroads, which are excluded from chapter 7, are permitted to proceed under chapter 11. Stockbrokers and commodity brokers, which are permitted to be debtors under chapter 7, are excluded from chapter 11. The special rules for treatment of customer accounts that are the essence of stockbroker and commodity broker liquidations are available only in chapter 7. Customers would be unprotected under chapter 11. The special protective rules are unavailable in chapter 11 because their complexity would make reorganization very difficult at best, and unintelligible at worst. The variety of options available in reorganization cases make it extremely difficult to reorganize and continue to provide the special customer protection necessary in these cases.

Subsection (e) specifies eligibility for chapter 13, Adjustment of Debts of an Individual with Regular Income. An individual with regular income, or an individual with regular income and the individual's spouse, may proceed under chapter 13. As noted in connection with the definition of the term ''individual with regular income'', this represents a significant departure from current law. The change might have been too great, however, without some limitation. Thus, the debtor (or the debtor and spouse) must have unsecured debts that aggregate less than $100,000, and secured debts that aggregate less than $500,000. These figures will permit the small sole proprietor, for whom a chapter 11 reorganization is too cumbersome a procedure, to proceed under chapter 13. It does not create a presumption that any sole proprietor within that range is better off in chapter 13 than chapter 11. The conversion rules found in section 1307 will govern the appropriateness of the two chapters for any particular individual. The figures merely set maximum limits.

Whether a small business operated by a husband and wife, the so-called ''mom and pop grocery store,'' will be a partnership and thus excluded from chapter 13, or a business owned by an individual, will have to be determined on the facts of each case. Even if partnership papers have not been filed, for example, the issue will be whether the assets of the grocery store are for the benefit of all creditors of the debtor or only for business creditors, and whether such assets may be the subject of a chapter 13 proceeding. The intent of the section is to follow current law that a partnership by estoppel may be adjudicated in bankruptcy and therefore would not prevent a chapter 13 debtor from subjecting assets in such a partnership to the reach of all creditors in a chapter 13 case. However, if the partnership is found to be a partnership by agreement, even informal agreement, than a separate entity exists and the assets of that entity would be exempt from a case under chapter 13.

REFERENCES IN TEXT

Section 351 of the Small Business Investment Act of 1958, referred to in subsec. (b)(2), is classified to section 689 of Title 15, Commerce and Trade.

Section 301 of the Small Business Investment Act of 1958, referred to in subsec. (b)(2), is classified to section 681 of Title 15, Commerce and Trade.

Section 3(h) of the Federal Deposit Insurance Act, referred to in subsec. (b)(2), is classified to section 1813(h) of Title 12, Banks and Banking.

Section 25A of the Federal Reserve Act, referred to in subsecs. (b)(2) and (d), popularly known as the Edge Act, is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 12 and Tables.

Section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991, referred to in subsecs. (b)(2) and (d), is classified to section 4422 of Title 12, Banks and Banking.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (b)(3)(B), is classified to section 3101 of Title 12, Banks and Banking.

AMENDMENTS

2010—Subsec. (b)(3)(B). Pub. L. 111–327, § 2(a)(6)(A), inserted closing parenthesis after ''1978''.

Subsec. (h)(1). Pub. L. 111–327, § 2(a)(6)(B), inserted ''other than paragraph (4) of this subsection'' after ''this section'' and substituted ''ending on'' for ''preceding''.

2009—Subsec. (h)(3)(A)(ii). Pub. L. 111–16 substituted ''7-day'' for ''5-day''.

2005—Subsec. (b)(2). Pub. L. 109–8, § 1204(1), struck out ''subsection (c) or (d) of'' before ''section 301''.

Subsec. (b)(3). Pub. L. 109–8, § 802(d)(1), added par. (3) and struck out former par. (3) which read as follows: ''a foreign insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union, engaged in such business in the United States.''

Subsec. (f). Pub. L. 109–8, § 1007(b), inserted ''or family fisherman'' after ''family farmer''.

Subsec. (h). Pub. L. 109–8, § 106(a), added subsec. (h).

2000—Subsec. (b)(2). Pub. L. 106–554, § 1(a)(8) [§ 1(e)], inserted ''a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958,'' after ''homestead association,''.

Pub. L. 106–554, § 1(a)(5) [title I, § 112(c)(1)], substituted '', except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or'' for ''; or''.

Subsec. (d). Pub. L. 106–554, § 1(a)(5) [title I, § 112(c)(2)], amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Only a person that may be a debtor under chapter 7 of this title, except a stockbroker or a commodity broker, and a railroad may be a debtor under chapter 11 of this title.''

1994—Subsec. (b)(2). Pub. L. 103–394, §§ 220, 501(d)(2), inserted ''a small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958,'' after ''homestead association,'' and struck out ''(12 U.S.C. 1813(h))'' after ''Insurance Act''.

Subsec. (c)(2). Pub. L. 103–394, § 402, substituted ''specifically authorized, in its capacity as a municipality or by name,'' for ''generally authorized''.

Subsec. (e). Pub. L. 103–394, § 108(a), substituted ''$250,000'' and ''$750,000'' for ''$100,000'' and ''$350,000'', respectively, in two places.

1988—Subsec. (c)(3). Pub. L. 100–597 struck out ''or unable to meet such entity's debts as such debts mature'' after ''insolvent''.

1986—Subsec. (f). Pub. L. 99–554, § 253(1)(B), (2), added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (g). Pub. L. 99–554, § 253(1), redesignated former subsec. (f) as (g) and inserted reference to family farmer.

1984—Subsec. (a). Pub. L. 98–353, § 425(a), struck out ''in the United States,'' after ''only a person that resides''.

Subsec. (c)(5)(D). Pub. L. 98–353, § 425(b), substituted ''transfer that is avoidable under section 547 of this title'' for ''preference''.

Subsec. (d). Pub. L. 98–353, § 425(c), substituted ''stockbroker'' for ''stockholder''.

Subsec. (f). Pub. L. 98–353, § 301, added subsec. (f).

1982—Subsec. (b)(2). Pub. L. 97–320 inserted reference to industrial banks or similar institutions which are insured banks as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–16, § 7, May 7, 2009, 123 Stat. 1609, provided that: ''The amendments made by this Act [amending this section, sections 322, 332, 342, 521, 704, 749, and 764 of this title, sections 983, 1514, 1963, 2252A, 2339B, 3060, 3432, 3509, and 3771 of Title 18, Crimes and Criminal Procedure, section 7 of the Classified Information Procedures Act set out in the Appendix to Title 18, section 853 of Title 21, Food and Drugs, and sections 636, 1453, and 2107 of Title 28, Judiciary and Judicial Procedure] shall take effect on December 1, 2009.''

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.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–597 effective Nov. 3, 1988, but not applicable to any case commenced under this title before that date, see section 12 of Pub. L. 100–597, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–554 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.

ADJUSTMENT OF DOLLAR AMOUNTS

The dollar amounts specified in this section were adjusted by notices of the Judicial Conference of the United States pursuant to section 104 of this title as follows:

By notice dated Feb. 12, 2013, 78 F.R. 12089, effective Apr. 1, 2013, in subsec. (e), dollar amounts ''360,475'' and ''1,081,400'' were adjusted to ''383,175'' and ''1,149,525'', respectively, each time they appeared. See notice of the Judicial Conference of the United States set out as a note under section 104 of this title.

By notice dated Feb. 19, 2010, 75 F.R. 8747, effective Apr. 1, 2010, in subsec. (e), dollar amounts ''336,900'' and ''1,010,650'' were adjusted to ''360,475'' and ''1,081,400'', respectively, each time they appeared.

By notice dated Feb. 7, 2007, 72 F.R. 7082, effective Apr. 1, 2007, in subsec. (e), dollar amounts ''307,675'' and ''922,975'' were adjusted to ''336,900'' and ''1,010,650'', respectively, each time they appeared.

By notice dated Feb. 18, 2004, 69 F.R. 8482, effective Apr. 1, 2004, in subsec. (e), dollar amounts ''290,525'' and ''871,550'' were adjusted to ''307,675'' and ''922,975'', respectively, each time they appeared.

By notice dated Feb. 13, 2001, 66 F.R. 10910, effective Apr. 1, 2001, in subsec. (e), dollar amounts ''269,250'' and ''807,750'' were adjusted to ''290,525'' and ''871,550'', respectively, each time they appeared.

By notice dated Feb. 3, 1998, 63 F.R. 7179, effective Apr. 1, 1998, in subsec. (e), dollar amounts ''250,000'' and ''750,000'' were adjusted to ''269,250'' and ''807,750'', respectively, each time they appeared.

§ 110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions

(a) In this section—

(1) ''bankruptcy petition preparer'' means a person, other than an attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a document for filing; and

(2) ''document for filing'' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

(b)(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address. If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

(A) sign the document for filing; and

(B) print on the document the name and address of that officer, principal, responsible person, or partner.

(2)(A) Before preparing any document for filing or accepting any fees from or on behalf of a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

(B) The notice under subparagraph (A)—

(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

(iii) shall—

(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

(II) be filed with any document for filing.

(c)(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.

(2)(A) Subject to subparagraph (B), for purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.

(d) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

(e)(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

(i) whether—

(I) to file a petition under this title; or

(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

(ii) whether the debtor's debts will be discharged in a case under this title;

(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

(iv) concerning—

(I) the tax consequences of a case brought under this title; or

(II) the dischargeability of tax claims;

(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

(vii) concerning bankruptcy procedures and rights.

(f) A bankruptcy petition preparer shall not use the word ''legal'' or any similar term in any advertisements, or advertise under any category that includes the word ''legal'' or any similar term.

(g) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for the debtor or accepting any fee from or on behalf of the debtor.

(2) A declaration under penalty of perjury by the bankruptcy petition preparer shall be filed together with the petition, disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor. If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).

(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2)—

(i) found to be in excess of the value of any services rendered by the bankruptcy petition