(3) A notice filed under paragraph (1) may be withdrawn by such entity.

(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2565; Pub. L. 98–353, title III, §§ 302, 435, July 10, 1984, 98 Stat. 352, 370; Pub. L. 103–394, title II, § 225, Oct. 22, 1994, 108 Stat. 4131; Pub. L. 109–8, title I, §§ 102(d), 104, title II, § 234(b), title III, § 315(a), Apr. 20, 2005, 119 Stat. 33, 35, 75, 88; Pub. L. 111–16, § 2(4), May 7, 2009, 123 Stat. 1607.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 342(b) and (c) of the Senate amendment are adopted in principle but moved to section 549(c), in lieu of section 342(b) of H.R. 8200 as passed by the House.

Section 342(c) of H.R. 8200 as passed by the House is deleted as a matter to be left to the Rules of Bankruptcy Procedure.

SENATE REPORT NO. 95–989

Subsection (a) of section 342 requires the clerk of the bankruptcy court to give notice of the order for relief. The rules will prescribe to whom the notice should be sent and in what manner notice will be given. The rules already prescribe such things, and they will continue to govern unless changed as provided in section 404(a) of the bill. Due process will certainly require notice to all creditors and equity security holders. State and Federal governmental representatives responsible for collecting taxes will also receive notice. In cases where the debtor is subject to regulation, the regulatory agency with jurisdiction will receive notice. In order to insure maximum notice to all parties in interest, the Rules will include notice by publication in appropriate cases and for appropriate issues. Other notices will be given as appropriate.

Subsections (b) and (c) [enacted as section 549(c)] are derived from section 21g of the Bankruptcy Act [section 44(g) of former title 11]. They specify that the trustee may file notice of the commencement of the case in land recording offices in order to give notice of the pendency of the case to potential transferees of the debtor's real property. Such filing is unnecessary in the county in which the bankruptcy case is commenced. If notice is properly filed, a subsequent purchaser of the property will not be a bona fide purchaser. Otherwise, a purchaser, including a purchaser at a judicial sale, that has no knowledge of the case, is not prevented from obtaining the status of a bona fide purchaser by the mere commencement of the case. ''County'' is defined in title 1 of the United States Code to include other political subdivisions where counties are not used.

AMENDMENTS

2009—Subsec. (e)(2). Pub. L. 111–16 substituted ''7 days'' for ''5 days''.

2005—Subsec. (b). Pub. L. 109–8, § 104, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Prior to the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give written notice to such individual that indicates each chapter of this title under which such individual may proceed.''

Subsec. (c). Pub. L. 109–8, § 315(a)(1) designated existing provisions as par. (1), struck out '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice'' after ''number of the debtor'', and added par. (2).

Pub. L. 109–8, § 234(b), inserted ''last 4 digits of the'' before ''taxpayer identification number'' and ''If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.'' at end.

Subsec. (d). Pub. L. 109–8, § 102(d), added subsec. (d).

Subsecs. (e) to (g). Pub. L. 109–8, § 315(a)(2), added subsecs. (e) to (g).

1994—Subsec. (c). Pub. L. 103–394 added subsec. (c).

1984—Subsec. (a). Pub. L. 98–353, § 435, amended subsec. (a) generally, inserting requirement respecting notice to any holder of a community claim.

Pub. L. 98–353, § 302(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 98–353, § 302(2), added subsec. (b).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of this title.

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 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.

§ 343. Examination of the debtor

The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, any trustee or examiner in the case, or the United States trustee may examine the debtor. The United States trustee may administer the oath required under this section.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2565; Pub. L. 98–353, title III, § 436, July 10, 1984, 98 Stat. 370;

Pub. L. 99–554, title II, § 213, Oct. 27, 1986, 100 Stat. 3099.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95–989

This section, derived from section 21a of the Bankruptcy Act [section 44(a) of former title 11], requires the debtor to appear at the meeting of creditors and submit to examination under oath. The purpose of the examination is to enable creditors and the trustee to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge. The scope of the examination under this section will be governed by the Rules of Bankruptcy Procedure, as it is today. See rules 205(d), 10–213(c), and 11–26. It is expected that the scope prescribed by these rules for liquidation cases, that is, ''only the debtor's acts, conduct, or property, or any matter that may affect the administration of the estate, or the debtor's right to discharge'' will remain substantially unchanged. In reorganization cases, the examination would be broader, including inquiry into the liabilities and financial condition of the debtor, the operation of his business, and the desirability of the continuance thereof, and other matters relevant to the case and to the formulation of the plan. Examination of other persons in connection with the bankruptcy case is left completely to the rules, just as examination of witnesses in civil cases is governed by the Federal Rules of Civil Procedure.

AMENDMENTS

1986—Pub. L. 99–554 amended section generally. Prior to amendment, section read as follows: ''The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, or any trustee or examiner in the case may examine the debtor.''

1984—Pub. L. 98–353 substituted ''examine'' for ''examiner''.

EFFECTIVE DATE OF 1986 AMENDMENT

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

PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS

A bankruptcy administrator or the bankruptcy administrator's designee may examine debtor at meeting of creditors and may administer oath required by this section, see section 105 of Pub. L. 103–394, set out as a note under section 341 of this title.

§ 344. Self-incrimination; immunity

Immunity for persons required to submit to examination, to testify, or to provide information in a case under this title may be granted under part V of title 18.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2565.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95–989

Part V [§ 6001 et seq.] of title 18 of the United States Code governs the granting of immunity to witnesses before Federal tribunals. The immunity provided under part V is only use immunity, not transactional immunity. Part V applies to all proceedings before Federal courts, before Federal grand juries, before administrative agencies, and before Congressional committees. It requires the Attorney General or the U. S. attorney to request or to approve any grant of immunity, whether before a court, grand jury, agency, or congressional committee.

This section carries part V over into bankruptcy cases. Thus, for a witness to be ordered to testify before a bankruptcy court in spite of a claim of privilege, the U. S. attorney for the district in which the court sits would have to request from the district court for that district the immunity order. The rule would apply to both debtors, creditors, and any other witnesses in a bankruptcy case. If the immunity were granted, the witness would be required to testify. If not, he could claim the privilege against self-incrimination.

Part V is a significant departure from current law. Under section 7a(10) of the Bankruptcy Act [section 25(a)(10) of former title 11], a debtor is required to testify in all circumstances, but any testimony he gives may not be used against him in any criminal proceeding, except testimony given in any hearing on objections to discharge. With that exception, section 7a(10) amounts to a blanket grant of use immunity to all debtors. Immunity for other witnesses in bankruptcy courts today is governed by part V of title 18.

The consequences of a claim of privileges by a debtor under proposed law and under current law differ as well. Under section 14c(6) of current law [section 32(c)(6) of former title 11], any refusal to answer a material question approved by the court will result in the denial of a discharge, even if the refusal is based on the privilege against self incrimination. Thus, the debtor is confronted with the choice between losing his discharge and opening himself up to possible criminal prosecution.

Under section 727(a)(6) of the proposed title 11, a debtor is only denied a discharge if he refuses to testify after having been granted immunity. If the debtor claims the privilege and the U. S. attorney does not request immunity from the district courts, then the debtor may refuse to testify and still retain his right to a discharge. It removes the Scylla and Charibdis choice for debtors that exists under the Bankruptcy Act [former title 11].

§ 345. Money of estates

(a) A trustee in a case under this title may make such deposit or investment of the money of the estate for which such trustee serves as will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.

(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

(C) conditioned on—

(i) a proper accounting for all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or