

HISTORICAL AND REVISION NOTES

Based on section 52(b) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, §29b, 30 Stat. 554; May 27, 1926, ch. 406, §11 (part), 44 Stat. 665; June 22, 1938, ch. 575, §1 (part), 52 Stat. 855).

Section was broadened to apply to one who gives or offers a bribe.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$5,000” in closing provisions.

1994—Pub. L. 103-394 amended section generally, designating undesignated pars. as opening provisions, pars. (1) to (9), and closing provisions, and in pars. (1) and (9) inserting reference to United States Trustee.

Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000” in last par.

1988—Pub. L. 100-690 substituted “penalty of perjury” for “penalty or perjury” in third par.

1978—Pub. L. 95-598 substituted, wherever appearing, “debtor” for “bankrupt”, “case under title 11” for “bankruptcy proceeding”, and “provisions of title 11” for “bankruptcy law”; and substituted “a custodian” for “the receiver, custodian”, wherever appearing, and “recorded information, including books, documents, records, and papers, relating to the property or financial affairs” for “document affecting or relating to the property or affairs”, in two places.

1976—Pub. L. 94-550 inserted paragraph covering the knowing and fraudulent making of a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 or in relation to any bankruptcy proceeding.

1960—Pub. L. 86-701 included fraudulent transfers and concealment of property by persons in their individual capacity in sixth par.

Pub. L. 86-519 struck out “under oath” after “knowingly and fraudulently presents” in third par.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 153. Embezzlement against estate

(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person’s own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined under this title, imprisoned not more than 5 years, or both.

(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person’s participation in

the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95-598, title III, §314(a)(1), (d)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103-394, title III, §312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4139; Pub. L. 104-294, title VI, §601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

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Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$5,000”.

1994—Pub. L. 103-394 amended section generally. Prior to amendment, section read as follows: “Whoever knowingly and fraudulently appropriates to his own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor which came into his charge as trustee, custodian, marshal, or other officer of the court, shall be fined under this title or imprisoned not more than five years, or both.”

Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

1978—Pub. L. 95-598 struck out “, receiver” after “trustee” in section catchline and in text struck out “receiver,” before “custodian” and substituted “debtor” for “bankrupt”.

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§ 154. Adverse interest and conduct of officers

A person who, being a custodian, trustee, marshal, or other officer of the court—

(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person’s charge by parties when directed by the court to do so; or