

1304. The trustee must perform the duties specified in sections 1106(a)(3) and 1106(a)(4), relating to investigation of the debtor.

#### REFERENCES IN TEXT

Chapter XIII of the Bankruptcy Act, referred to in subsec. (b)(3), is chapter XIII of act July 1, 1898, ch. 541, as added June 22, 1938, ch. 575, § 1, 52 Stat. 930, which was classified to chapter 13 (§1001 et seq.) of former Title 11.

Sections 464 and 466 of the Social Security Act, referred to in subsec. (d)(1)(A)(i), are classified to sections 664 and 666, respectively, of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-327 substituted “704(a)(2), 704(a)(3), 704(a)(4), 704(a)(5), 704(a)(6), 704(a)(7), and 704(a)(9)” for “704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9)”.

2005—Subsec. (b)(6). Pub. L. 109-8, § 219(d)(1), added par. (6).

Subsec. (d). Pub. L. 109-8, § 219(d)(2), added subsec. (d). 1994—Subsec. (b)(3). Pub. L. 103-394 struck out “and” at end.

1986—Subsec. (a). Pub. L. 99-554, § 228(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “If the court has appointed an individual under subsection (d) of this section to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. Otherwise, the court shall appoint a person to serve as trustee in the case.”

Subsec. (d). Pub. L. 99-554, § 228(2), struck out subsec. (d) which read as follows: “If the number of cases under this chapter commenced in a particular judicial district so warrant, the court may appoint one or more individuals to serve as standing trustee for such district in cases under this chapter.”

Subsec. (e). Pub. L. 99-554, § 283(w), which directed the amendment of par. (1) by substituting “set for such individual” for “fix” could not be executed in view of the repeal of subsec. (e) by section 228(2) of Pub. L. 99-554. See 1984 Amendment note below.

Pub. L. 99-554, § 228(2), struck out subsec. (e) which read as follows:

“(1) A court that has appointed an individual under subsection (d) of this section to serve as standing trustee in cases under this chapter shall set for such individual—

“(A) a maximum annual 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; and

“(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

“(2) Such individual shall collect such percentage fee from all payments under plans in the cases under this chapter for which such individual serves as standing trustee. Such individual shall pay annually to the Treasury—

“(A) any amount by which the actual compensation received by such individual exceeds five percent of all such payments made under plans in cases under this chapter for which such individual serves as standing trustee; and

“(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

“(i) such individual’s actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

“(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.”

1984—Subsec. (b)(1). Pub. L. 98-353, § 314(1), substituted “704(7), and 704(9) of this title” for “and 704(8) of this title”.

Subsec. (b)(2). Pub. L. 98-353, § 314(2), struck out “and” at the end.

Subsec. (b)(3) to (5). Pub. L. 98-353, § 525(a), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Pub. L. 98-353, § 314(3), (4), substituted “; and” for the period at end of par. (3) and added par. (4).

Subsec. (e)(1). Pub. L. 98-353, § 525(b)(1), which directed the amendment of par. (4) by substituting “set for such individual” for “fix” was executed to par. (1) as the probable intent of Congress.

Subsec. (e)(1)(A). Pub. L. 98-353, § 525(b)(2), struck out “for such individual” after “a maximum annual compensation”.

Subsec. (e)(2)(A). Pub. L. 98-353, § 525(b)(3), substituted “received by” for “of”, and “of all such payments made” for “upon all payments”.

#### 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 1986 AMENDMENT

Effective date and applicability of amendment by section 228 of 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.

Amendment by section 283 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554.

#### 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.

### § 1303. Rights and powers of debtor

Subject to any limitations on a trustee under this chapter, the debtor shall have, exclusive of the trustee, the rights and powers of a trustee under sections 363(b), 363(d), 363(e), 363(f), and 363(l), of this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2646.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1303 of the House amendment specifies rights and powers that the debtor has exclusive of the trustees. The section does not imply that the debtor does not also possess other powers concurrently with the trustee. For example, although section 1323 is not specified in section 1303, certainly it is intended that the debtor has the power to sue and be sued.

##### SENATE REPORT NO. 95-989

A chapter 13 debtor is vested with the identical rights and powers, and is subject to the same limitations in regard to their exercise, as those given a liquidation trustee by virtue of section 363(b), (d), (e), (f), and (h) of title 11, relating to the sale, use or lease of property.

### § 1304. Debtor engaged in business

(a) A debtor that is self-employed and incurs trade credit in the production of income from such employment is engaged in business.