

their claims. The going concern value contemplates a “comparison of revenues and expenditures taking into account the taxing power and the extent to which tax increases are both necessary and feasible” Municipal Insolvency, *supra*, at p. 64, and is intended to provide more of a return to creditors than the liquidation value if the city’s assets could be liquidated like those of a private corporation.

HOUSE REPORT NO. 95-595

In addition to the confirmation requirements incorporated from section 1129 by section 901, this section specifies additional requirements. Paragraph (1) requires compliance with the provisions of the title made applicable in chapter 9 cases. This provision follows section 94(b)(2) [section 414(b)(2) of former title 11]. Paragraph (2) requires compliance with the provisions of chapter 9, as does section 94(b)(2). Paragraph (3) adopts section 94(b)(4), requiring disclosure and reasonableness of all payments to be made in connection with the plan or the case. Paragraph (4), copied from section 92(b)(6) [probably should be “94(b)(6)” which was section 414(b)(6) of former title 11], requires that the debtor not be prohibited by law from taking any action necessary to carry out the plan. Paragraph (5) departs from current law by requiring that administrative expenses be paid in full, but not necessarily in cash. Finally, paragraph (6) requires that the plan be in the best interest of creditors and feasible. The best interest test was deleted in section 94(b)(1) of current chapter IX from previous chapter IX [chapter 9 of former title 11] because it was redundant with the fair and equitable rule. However, this bill proposes a new confirmation standard generally for reorganization, one element of which is the best interest of creditors test; see section 1129(a)(7). In that section, the test is phrased in terms of liquidation of the debtor. Because that is not possible in a municipal case, the test here is phrased in its more traditional form, using the words of art “best interest of creditors.” The best interest of creditors test here is in addition to the financial standards imposed on the plan by sections 1129(a)(8) and 1129(b), just as those provisions are in addition to the comparable best interest test in chapter 11, 11 U.S.C. 1129(a)(7). The feasibility requirement, added in the revision of chapter IX last year, is retained.

REFERENCES IN TEXT

Section 103(e) of this title, referred to in subsec. (b)(1), was redesignated section 103(f) and a new section 103(e) was added by Pub. L. 106-554, §1(a)(5) [title I, §112(c)(5)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A-394.

AMENDMENTS

2005—Subsec. (b)(5). Pub. L. 109-8 substituted “507(a)(2)” for “507(a)(1)”.

1988—Subsec. (b)(6), (7). Pub. L. 100-597 added par. (6) and redesignated former par. (6) as (7).

1984—Subsec. (b)(4). Pub. L. 98-353, §497(1), struck out “to be taken” after “necessary”.

Subsec. (b)(5). Pub. L. 98-353, §497(2), substituted provisions requiring the plan to provide payment of cash in an amount equal to the allowed amount of a claim except to the extent that the holder of a particular claim has agreed to different treatment of such claim, for provisions which required the plan to provide for payment of property of a value equal to the allowed amount of such claim except to the extent that the holder of a particular claim has waived such payment on such claim.

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 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 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.

§ 944. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not—

- (1) a proof of such creditor’s claim is filed or deemed filed under section 501 of this title;
- (2) such claim is allowed under section 502 of this title; or
- (3) such creditor has accepted the plan.

(b) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when—

- (1) the plan is confirmed;
- (2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and
- (3) the court has determined—
 - (A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and
 - (B) that any provision made to pay or secure payment of such obligation is valid.

(c) The debtor is not discharged under subsection (b) of this section from any debt—

- (1) excepted from discharge by the plan or order confirming the plan; or
- (2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2624.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

[Section 947] Subsection (a) [enacted as section 944(a)] makes the provisions of a confirmed plan binding on the debtor and creditors. It is derived from section 95(a) of chapter 9 [section 415(a) of former title 11].

Subsections (b) and (c) [enacted as section 944(b) and (c)] provide for the discharge of a municipality. The discharge is essentially the same as that granted under section 95(b) of the Bankruptcy Act [section 415(b) of former title 11].

§ 945. Continuing jurisdiction and closing of the case

(a) The court may retain jurisdiction over the case for such period of time as is necessary for the successful implementation of the plan.

(b) Except as provided in subsection (a) of this section, the court shall close the case when administration of the case has been completed.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2625; Pub. L. 98-353, title III, §498, July 10, 1984, 98 Stat. 384.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 948 [enacted as section 945] permits the court to retain jurisdiction over the case to ensure successful execution of the plan. The provision is the same as that found in section 96(e) of Chapter 9 of the present Act [section 416(e) of former title 11].

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-353 substituted “implementation” for “execution”.