

SUBCHAPTER V—CONCURRENT
PROCEEDINGS

§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

(Added Pub. L. 109–8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 143.)

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

§ 1529. Coordination of a case under this title and a foreign proceeding

If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

(1) If the case in the United States is pending at the time the petition for recognition of such foreign proceeding is filed—

(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

(Added Pub. L. 109–8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 144; amended Pub. L. 111–327, §2(a)(48), Dec. 22, 2010, 124 Stat. 3562.)

AMENDMENTS

2010—Par. (1). Pub. L. 111–327, which directed amendment of par. (1) by inserting “is” after “States”, was executed by making the insertion only in introductory provisions to reflect the probable intent of Congress.

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

§ 1530. Coordination of more than 1 foreign proceeding

In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

(Added Pub. L. 109–8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 144.)

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

(Added Pub. L. 109–8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 144.)

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

§ 1532. Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.

(Added Pub. L. 109-8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 145.)

PRIOR PROVISIONS

Sections 15101 to 151326 of prior chapter 15 were repealed by Pub. L. 99-554, title II, §231, Oct. 27, 1986, 100 Stat. 3103.

Section 15101, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2652, related to definitions.

Section 15102, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2652, related to a rule of construction.

Section 15103, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2652; Pub. L. 98-353, title III, §§311(b)(3), 318(b), July 10, 1984, 98 Stat. 355, 357, related to applicability of subchapters and sections.

Section 15303, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to involuntary cases.

Section 15321, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to eligibility to serve as trustee.

Section 15322, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to qualification of trustee.

Section 15324, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to removal of trustee or examiner.

Section 15326, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to limitation on compensation of trustee.

Section 15330, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to compensation of officers.

Section 15343, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2653, related to examination of debtor.

Section 15345, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2654; Pub. L. 97-258, §3(c), Sept. 13, 1982, 96 Stat. 1064, related to money of estates.

Section 15701, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2654, related to interim trustee.

Section 15703, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2654, related to successor trustee.

Section 15704, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2655, related to duties of trustee.

Section 15727, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2655, related to discharge.

Section 151102, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2655, related to creditors' and equity security holders' committees.

Section 151104, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2655, related to appointment of trustee or examiner.

Section 151105, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2656, related to termination of trustee's appointment.

Section 151163, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2656, related to appointment of trustee.

Section 151302, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2656; Pub. L. 98-353, title III, §§311(b)(4), 534, July 10, 1984, 98 Stat. 355, 390, related to trustees.

Section 151326, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2657, related to payments.

Effective date and applicability of repeal by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out in an Effective Date of 1986 Amendment; Transition and Administrative Provisions note under section 581 of Title 28, Judiciary and Judicial Procedure.

Pub. L. 95-598, title IV, §408(c), Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-166, title II, §200, Nov. 28, 1983, 97 Stat. 1081; Pub. L. 98-353, title III, §323, July 10, 1984, 98 Stat. 358; Pub. L. 99-429, Sept. 30, 1986, 100 Stat. 985; Pub. L. 99-500, §101(b) [title II, §200], Oct. 18, 1986, 100 Stat. 1783-39, 1783-45, and Pub. L. 99-591, §101(b) [title II, §200], Oct. 30, 1986, 100 Stat. 3341-39, 3341-45; Pub. L. 99-554, title III, §307(a), Oct. 27, 1986, 100 Stat. 3125, provided for the repeal of prior chapter 15 at a prospective date, prior to repeal by Pub. L. 99-554, title III, §307(b), Oct. 27, 1986, 100 Stat. 3125.

EFFECTIVE DATE

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