

the Bankruptcy Act [section 108 of former title 11]. One exception to the right is the automatic stay, discussed in connection with proposed 11 U.S.C. 362. Another is the right of the trustee to use property under section 363 that is subject to a right of setoff.

The section states that the right of setoff is unaffected by the bankruptcy code except to the extent that the creditor's claim is disallowed, the creditor acquired (other than from the debtor) the claim during the 90 days preceding the case while the debtor was insolvent, the debt being offset was incurred for the purpose of obtaining a right of setoff, while the debtor was insolvent and during the 90-day prebankruptcy period, or the creditor improved his position in the 90-day period (similar to the improvement in position test found in the preference section 547(c)(5)). Only the last exception is an addition to current law.

As under section 547(f), the debtor is presumed to have been insolvent during the 90 days before the case.

AMENDMENTS

2005—Subsec. (a)(2)(B)(ii). Pub. L. 109–8, § 907(n)(1), inserted “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)” before semicolon.

Subsec. (a)(3)(C). Pub. L. 109–8, § 907(n)(2), inserted “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)” before period.

Subsec. (b)(1). Pub. L. 109–8, § 907(n)(3), substituted “362(b)(17), 362(b)(27), 555, 556, 559, 560, 561.” for “362(b)(14),” in introductory provisions.

1994—Subsec. (a)(1). Pub. L. 103–394, § 501(d)(19)(A), struck out before semicolon at end “other than under section 502(b)(3) of this title”.

Subsec. (b)(1). Pub. L. 103–394, § 501(d)(19)(B), substituted “section 362(b)(14),” for “section 362(b)(14),.”

Pub. L. 103–394, § 222(b), which directed the amendment of section 553(b)(1) by inserting “546(h),” after “365(h),” was executed by making the insertion in section 553(b)(1) of this title to reflect the probable intent of Congress.

Pub. L. 103–394, § 205(b), substituted “365(h)” for “365(h)(2)”.

1990—Subsec. (b)(1). Pub. L. 101–311 substituted “362(b)(7), 362(b)(14),” for “362(b)(7),.”

1984—Subsec. (b)(1). Pub. L. 98–353 inserted “, 362(b)(7),” after “362(b)(6),” and substituted “, 365(h)(2), or 365(i)(2)” for “or 365(h)(1)”.

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.

§ 554. Abandonment of property of the estate

(a) After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

(b) On request of a party in interest and after notice and a hearing, the court may order the

trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.

(d) Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2603; Pub. L. 98–353, title III, § 468, July 10, 1984, 98 Stat. 380; Pub. L. 99–554, title II, § 283(p), Oct. 27, 1986, 100 Stat. 3118; Pub. L. 111–327, § 2(a)(23), Dec. 22, 2010, 124 Stat. 3560.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 554(b) is new and permits a party in interest to request the court to order the trustee to abandon property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

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Under this section the court may authorize the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate. Abandonment may be to any party with a possessory interest in the property abandoned. In order to aid administration of the case, subsection (b) deems the court to have authorized abandonment of any property that is scheduled under section 521(1) and that is not administered before the case is closed. That property is deemed abandoned to the debtor. Subsection (c) specifies that if property is neither abandoned nor administered it remains property of the estate.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111–327 substituted “521(a)(1)” for “521(1)”.

1986—Subsec. (c). Pub. L. 99–554 substituted “521(1)” for “521(a)(1)”.

1984—Subsecs. (a), (b). Pub. L. 98–353, § 468(a), inserted “and benefit” after “value”.

Subsec. (c). Pub. L. 98–353, § 468(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Unless the court orders otherwise, any property that is scheduled under section 521(1) of this title and that is not administered before a case is closed under section 350 of this title is deemed abandoned.”

Subsec. (d). Pub. L. 98–353, § 468(c), struck out “section (a) or (b) of” after “not abandoned under”.

EFFECTIVE DATE OF 1986 AMENDMENT

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

§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract

The exercise of a contractual right of a stockbroker, financial institution, financial participant, or securities clearing agency to cause the