

Oct. 22, 1994, 108 Stat. 4132, 4147; Pub. L. 109–8, title I, § 106(c), title II, § 213(11), title III, §§ 312(2), 314(b), 330(d), title VII, § 707, Apr. 20, 2005, 119 Stat. 38, 53, 87, 88, 102, 126.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1328(a) adopts a provision contained in the Senate amendment permitting the court to approve a waiver of discharge by the debtor. It is anticipated that such a waiver must be in writing executed after the order for relief in a case under chapter 13.

SENATE REPORT NO. 95–989

The court is to enter a discharge, unless waived, as soon as practicable after completion of payments under the plan. The debtor is to be discharged of all debts provided for by the plan or disallowed under section 502, except a debt provided for under the plan the last payment on which was not due until after the completion of the plan, or a debt incurred for willful and malicious conversion of or injury to the property or person of another.

Subsection (b) is the successor to Bankruptcy Act Section 661 [section 1061 of former title 11]. This subsection permits the bankruptcy judge to grant the debtor a discharge at any time after confirmation of a plan, if the court determines, after notice and hearing, that the failure to complete payments under the plan is due to circumstances for which the debtor should not justly be held accountable, the distributions made to each creditor under the plan equal in value the amount that would have been paid to the creditor had the estate been liquidated under chapter 7 of title 11 at the date of the hearing under this subsection, and that modification of the plan is impracticable. The discharge granted under subsection (b) relieves the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except nondischargeable debts described in section 523(a) of title 11 or debts of the type covered by section 1322(b)(5).

Subsection (d) excepts from any chapter 13 discharge a debt based on an allowed section 1305(a)(2) post-petition claim, if prior trustee approval of the incurring of the debt was practicable but was not obtained.

A chapter 13 discharge obtained through fraud and before the moving party gained knowledge of the fraud may be revoked by the court under subsection (e), after notice and hearing, at the request of any party in interest made within 1 year after the discharge was granted.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–8, § 330(d)(1), substituted “Subject to subsection (d), as” for “As” in introductory provisions.

Pub. L. 109–8, § 314(b), added pars. (1) to (4) and struck out former pars. (1) to (3) which read as follows:

“(1) provided for under section 1322(b)(5) of this title;
“(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or
“(3) for restitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime.”

Pub. L. 109–8, § 213(11), inserted “, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan” in introductory provisions.

Subsec. (a)(2). Pub. L. 109–8, § 707, substituted “section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),” for “paragraph”.

Subsec. (b). Pub. L. 109–8, § 330(d)(2), substituted “Subject to subsection (d), at” for “At” in introductory provisions.

Subsec. (f). Pub. L. 109–8, § 312(2), added subsec. (f).

Subsec. (g). Pub. L. 109–8, § 106(c), added subsec. (g).

Subsec. (h). Pub. L. 109–8, § 330(d)(3), added subsec. (h).
1994—Subsec. (a)(2). Pub. L. 103–394, § 501(d)(38)(A), substituted “(5), (8), or (9)” for “(5) or (8)”.

Subsec. (a)(3). Pub. L. 103–394, § 501(d)(38)(B), struck out last par. (3). See 1990 Amendment note below.

Pub. L. 103–394, § 302, inserted “, or a criminal fine,” after “restitution”.

1990—Subsec. (a)(1). Pub. L. 101–581, § 3(1), and Pub. L. 101–647, § 3103(1), made identical amendments striking “or” at end.

Subsec. (a)(2). Pub. L. 101–581, § 3(2), and Pub. L. 101–647, § 3103(2), made identical amendments substituting “; or” for period at end.

Pub. L. 101–581, § 2(b), and Pub. L. 101–647, § 3102(b), which directed identical insertions of “or 523(a)(9)” after “523(a)(5)”, could not be executed because of prior amendment by Pub. L. 101–508. See below.

Pub. L. 101–508 substituted “paragraph (5) or (8) of section 523(a)” for “section 523(a)(5)”.

Subsec. (a)(3). Pub. L. 101–581, § 3(3), and Pub. L. 101–647, § 3103(3), made identical amendments adding par. (3).

1984—Subsec. (e)(1). Pub. L. 98–353, § 532(1), inserted “by the debtor” after “obtained”.

Subsec. (e)(2). Pub. L. 98–353, § 532(2), substituted “the requesting party did not know of such fraud until” for “knowledge of such fraud came to the requesting party”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendments by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, with amendments by sections 106(c), 213(11), 312(2), 314(b), and 707 of Pub. L. 109–8 not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, and amendment by section 330(d) of Pub. L. 109–8 applicable with respect to cases commenced under this title on or after Apr. 20, 2005, 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 1990 AMENDMENT

Amendment by Pub. L. 101–647 effective Nov. 29, 1990, but not applicable with respect to cases commenced under this title before Nov. 29, 1990, see section 3104 of Pub. L. 101–647, set out as a note under section 523 of this title.

Amendment by Pub. L. 101–581 effective Nov. 15, 1990, but not applicable with respect to cases commenced under this title before Nov. 15, 1990, see section 4 of Pub. L. 101–581, set out as a note under section 523 of this title.

Pub. L. 101–508, title III, § 3007(b)(2), Nov. 5, 1990, 104 Stat. 1388–29, provided that: “The amendment made by paragraph (1) [amending this section] shall not apply to any case under the provisions of title 11, United States Code, commenced before the date of the enactment of this Act [Nov. 5, 1990].”

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.

§ 1329. Modification of plan after confirmation

(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments;

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or

(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

(A) such expenses are reasonable and necessary;

(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.

(b)(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2651; Pub. L. 98-353, title III, §§319, 533, July 10, 1984, 98 Stat. 357, 389; Pub. L. 109-8, title I, §102(i), title III, §318(4), Apr. 20, 2005, 119 Stat. 34, 94.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

At any time prior to the completion of payments under a confirmed plan, the plan may be modified, after notice and hearing, to change the amount of payments to creditors or a particular class of creditors and to extend or reduce the payment period. A modified plan may not contain any provision which could not be included in an original plan as prescribed by section 1322.

A modified plan may not call for payments to be made beyond four years as measured from the date of the commencement of payments under the original plan.

AMENDMENTS

2005—Subsec. (a)(4). Pub. L. 109-8, §102(i), added par. (4).

Subsec. (c). Pub. L. 109-8, §318(4), substituted “the applicable commitment period under section 1325(b)(1)(B)” for “three years”.

1984—Subsec. (a). Pub. L. 98-353, §§319, 533(1), (2), inserted “of the plan” after “confirmation”, substituted “such plan” for “a plan”, and inserted provisions respecting requests by the debtor, the trustee, or the holder of an allowed unsecured claim for modification.

Subsec. (a)(3). Pub. L. 98-353, §533(3), substituted “plan to” for “plan, to”.

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 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.

§ 1330. Revocation of an order of confirmation

(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1307 of this title, unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1329 of this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2651.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1331 of the House bill and Senate amendment is deleted in the House amendment.

Special tax provision: Section 1331 of title 11 of the House bill and the comparable provisions in sections 1322 and 1327(d) of the Senate amendment, pertaining to assessment and collection of taxes in wage earner plans, are deleted, and the governing rule is placed in section 505(c) of the House amendment. The provisions of both bills allowing assessment and collection of taxes after confirmation of the wage-earner plan are modified to allow assessment and collection after the court fixes the fact and amount of a tax liability, including administrative period taxes, regardless of whether this occurs before or after confirmation of the plan. The provision of the House bill limiting the collection of taxes to those assessed before one year after the filing of the petition is eliminated, thereby leaving the period of limitations on assessment of these non-dischargeable tax liabilities the usual period provided by the Internal Revenue Code [Title 26].

SENATE REPORT NO. 95-989

The court may revoke an order of confirmation procured by fraud, after notice and hearing, on application of a party in interest filed within 180 days after the entry of the order. Thereafter, unless a modified plan is