

Code, entitled 'Bankruptcy', and may be cited as 11 U.S.C. §—.''

#### REPEALS

Pub. L. 95-598, title IV, §401(a), Nov. 6, 1978, 92 Stat. 2682, provided that: "The Bankruptcy Act [act July 1, 1898, ch. 541, 30 Stat. 544, as amended] is repealed."

#### EFFECTIVE DATE

Pub. L. 95-598, title IV, §402, Nov. 6, 1978, 92 Stat. 2682, as amended by Pub. L. 98-249, §1(a), Mar. 31, 1984, 98 Stat. 116; Pub. L. 98-271, §1(a), Apr. 30, 1984, 98 Stat. 163; Pub. L. 98-299, §1(a), May 25, 1984, 98 Stat. 214; Pub. L. 98-325, §1(a), June 20, 1984, 98 Stat. 268; Pub. L. 98-353, title I, §§113, 121(a), July 10, 1984, 98 Stat. 343, 345; Pub. L. 98-454, title X, §1001, Oct. 5, 1984, 98 Stat. 1745, provided that:

"(a) Except as otherwise provided in this title [sections 401 to 411], this Act [for classification to the Code, see Tables] shall take effect on October 1, 1979.

"(b) Except as provided in subsections (c) and (d) of this section, the amendments made by title II [sections 201 to 252] of this Act shall not be effective.

"(c) The amendments made by sections 210, 214, 219, 220, 222, 224, 225, 228, 229, 235, 244, 245, 246, 249, and 251 of this Act shall take effect on October 1, 1979.

"(d) The amendments made by sections 217, 218, 230, 247, 302, 314(j), 317, 327, 328, 338, and 411 of this Act shall take effect on the date of enactment of this Act [Nov. 6, 1978].

"(e) [Repealed. Pub. L. 98-454, title X, §1001, Oct. 5, 1984, 98 Stat. 1745]."

[Amendment of section 402(b) of Pub. L. 95-598, set out above, by section 113 of Pub. L. 98-353 effective June 27, 1984, see section 122(c) of Pub. L. 98-353, set out as an Effective Date note under section 151 of Title 28, Judiciary and Judicial Procedure.]

#### SAVINGS PROVISION

Pub. L. 95-598, title IV, §403, Nov. 6, 1978, 92 Stat. 2683, as amended by Pub. L. 98-353, title III, §382, July 10, 1984, 98 Stat. 364, provided that:

"(a) A case commenced under the Bankruptcy Act, [act July 1, 1898, ch. 541, 30 Stat. 544, as amended], and all matters and proceedings in or relating to any such case, shall be conducted and determined under such Act as if this Act had not been enacted, and the substantive rights of parties in connection with any such bankruptcy case, matter, or proceeding shall continue to be governed by the law applicable to such case, matter, or proceeding as if the [this] Act had not been enacted.

"(b) Notwithstanding subsection (a) of this section, sections 1165, 1167, 1168, 1169, and 1171 of title 11 of the United States Code, as enacted by section 101 of this Act, apply to cases pending under section 77 of the Bankruptcy Act ([former] 11 U.S.C. 205) on the date of enactment of this Act [Nov. 6, 1978] in which the trustee has not filed a plan of reorganization.

"(c) The repeal [of the Bankruptcy Act] made by section 401(a) of this Act does not affect any right of a referee in bankruptcy, United States bankruptcy judge, or survivor of a referee in bankruptcy or United States bankruptcy judge to receive any annuity or other payment under the civil service retirement laws.

"(d) The amendments made by section 314 of this Act [for classification to the Code, see Tables] do not affect the application of chapter 9, chapter 96, section 2516, section 3057, or section 3284 of title 18 of the United States Code to any act of any person—

"(1) committed before October 1, 1979; or

"(2) committed after October 1, 1979, in connection with a case commenced before such date.

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act [former 11 U.S.C. 68(c)(2)(a)] in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds \$200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is

confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds \$100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed."

Pub. L. 98-353, title III, §381, July 10, 1984, 98 Stat. 364, provided that: "This subtitle [(§§381, 382) amending section 403(e) of Pub. L. 95-598, set out above] may be cited as the 'Referees Salary and Expense Fund Act of 1984.'"

#### HISTORY OF BANKRUPTCY ACTS

The bankruptcy laws were revised generally and enacted as Title 11, Bankruptcy, by Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2549.

Earlier bankruptcy laws included the following acts:

Apr. 4, 1800, ch. 19, 2 Stat. 19, repealed Dec. 19, 1803, ch. 6, 2 Stat. 248.

Aug. 19, 1841, ch. 9, 5 Stat. 440, repealed Mar. 3, 1843, ch. 82, 5 Stat. 614.

Mar. 2, 1867, ch. 176, 14 Stat. 517, the provisions of which were incorporated in Rev. Stat. Title LXI, §§4972 to 5132, were materially amended June 22, 1874, ch. 390, 18 Stat. 178, and were repealed June 7, 1878, ch. 160, 20 Stat. 99.

The Bankruptcy Act of July 1, 1898, ch. 541, 30 Stat. 544, as amended, sometimes called the Nelson Act, repealed by Pub. L. 95-598.

The Chandler Act of July 22, 1938, ch. 575, 52 Stat. 883, which revised the Bankruptcy Act generally and materially amended the provisions covering corporate reorganizations, repealed by Pub. L. 95-598.

#### NATIONAL BANKRUPTCY REVIEW COMMISSION

Pub. L. 103-394, title VI, Oct. 22, 1994, 108 Stat. 4147, established the National Bankruptcy Review Commission to (1) investigate and study issues and problems relating to title 11, United States Code, (2) evaluate the advisability of proposals and current arrangements with respect to such issues and problems, (3) solicit divergent views of all parties concerned with the operation of the bankruptcy system, and (4) prepare and submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting, and provided for termination of the Commission 30 days after submission of the report which was submitted on Oct. 20, 1997.

#### COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

Pub. L. 91-354, §§1-6, July 24, 1970, 84 Stat. 468, as amended by Pub. L. 92-251, Mar. 17, 1972, 86 Stat. 63; Pub. L. 93-56, §1, July 1, 1973, 87 Stat. 140, established the Commission on the Bankruptcy Laws of the United States, to study and recommend changes to this title, which ceased to exist 30 days after the date of submission of its final report which was required prior to July 31, 1973.

#### CHAPTER 1—GENERAL PROVISIONS

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## AMENDMENTS

2005—Pub. L. 109-8, title I, §106(e)(2), title II, §233(b), Apr. 20, 2005, 119 Stat. 41, 74, added items 111 and 112.  
 1994—Pub. L. 103-394, title III, §308(b), Oct. 22, 1994, 108 Stat. 4137, added item 110.

**§ 101. Definitions**

In this title the following definitions shall apply:

(1) The term “accountant” means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

(2) The term “affiliate” means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

(3) The term “assisted person” means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$150,000.<sup>1</sup>

(4) The term “attorney” means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

(4A) The term “bankruptcy assistance” means any goods or services sold or otherwise

provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors’ meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title.

(5) The term “claim” means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

(6) The term “commodity broker” means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761 of this title.

(7) The term “community claim” means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable, whether or not there is any such property at the time of the commencement of the case.

(7A) The term “commercial fishing operation” means—

(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A).

(7B) The term “commercial fishing vessel” means a vessel used by a family fisherman to carry out a commercial fishing operation.

(8) The term “consumer debt” means debt incurred by an individual primarily for a personal, family, or household purpose.

(9) The term “corporation”—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership.

(10) The term “creditor” means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

<sup>1</sup> See Adjustment of Dollar Amounts notes below.