

(c) A trustee is not liable personally or on such trustee's bond in favor of the United States for any penalty or forfeiture incurred by the debtor.

(d) A proceeding on a trustee's bond may not be commenced after two years after the date on which such trustee was discharged.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562; Pub. L. 98-353, title III, § 429, July 10, 1984, 98 Stat. 369; Pub. L. 99-554, title II, §§ 207, 257(d), Oct. 27, 1986, 100 Stat. 3098, 3114; Pub. L. 103-394, title V, § 501(d)(3), Oct. 22, 1994, 108 Stat. 4143; Pub. L. 111-16, § 2(2), May 7, 2009, 123 Stat. 1607.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 322(a) is modified to include a trustee serving in a railroad reorganization under subchapter IV of chapter 11.

SENATE REPORT NO. 95-989

A trustee qualifies in a case by filing, within five days after selection, a bond in favor of the United States, conditioned on the faithful performance of his official duties. This section is derived from the Bankruptcy Act section 50b [section 78(b) of former title 11]. The court is required to determine the amount of the bond and the sufficiency of the surety on the bond. Subsection (c), derived from Bankruptcy Act section 50i [section 78(i) of former title 11], relieves the trustee from personal liability and from liability on his bond for any penalty or forfeiture incurred by the debtor. Subsection (d), derived from section 50m [section 78(m) of former title 11], fixes a two-year statute of limitations on any action on a trustee's bond. Finally, subsection (e) dispenses with the bonding requirement for the United States trustee.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-16 substituted “seven days” for “five days”.

1994—Subsec. (a). Pub. L. 103-394 substituted “1202, or 1302” for “1302, or 1202”.

1986—Subsec. (a). Pub. L. 99-554, § 257(d), inserted reference to section 1202 of this title.

Pub. L. 99-554, § 207(1), substituted “Except as provided in subsection (b)(1), a person” for “A person”.

Subsec. (b). Pub. L. 99-554, § 207(2), amended subsec. (b) generally, adding par. (1), designating existing provisions as par. (2), substituting “The United States trustee” for “The court”, “(A) the amount” for “(1) the amount”, and “(B) the sufficiency” for “(2) the sufficiency”.

1984—Subsec. (b)(1). Pub. L. 98-353 inserted “required to be”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 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 1986 AMENDMENT

Effective date and applicability of amendment by section 207 of Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 257 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases

commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554.

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.

§ 323. Role and capacity of trustee

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Subsection (a) of this section makes the trustee the representative of the estate. Subsection (b) grants the trustee the capacity to sue and to be sued. If the debtor remains in possession in a chapter 11 case, section 1107 gives the debtor in possession these rights of the trustee: the debtor in possession becomes the representative of the estate, and may sue and be sued. The same applies in a chapter 13 case.

§ 324. Removal of trustee or examiner

(a) The court, after notice and a hearing, may remove a trustee, other than the United States trustee, or an examiner, for cause.

(b) Whenever the court removes a trustee or examiner under subsection (a) in a case under this title, such trustee or examiner shall thereby be removed in all other cases under this title in which such trustee or examiner is then serving unless the court orders otherwise.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562; Pub. L. 99-554, title II, § 208, Oct. 27, 1986, 100 Stat. 3098.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

This section permits the court, after notice and a hearing, to remove a trustee for cause.

AMENDMENTS

1986—Pub. L. 99-554 amended section generally, designating existing provisions as subsec. (a), substituting “a trustee, other than the United States trustee, or an examiner” for “a trustee or an examiner”, and adding subsec. (b).

EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

§ 325. Effect of vacancy

A vacancy in the office of trustee during a case does not abate any pending action or proceeding, and the successor trustee shall be substituted as a party in such action or proceeding.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2562.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 325, derived from Bankruptcy Act section 46 [section 74 of former title 11] and Bankruptcy Rule