

cuses on the value of the railroad as a going concern. That is, the test is based on what the assets, sold as operating rail lines, would bring.

The public interest requirement, found in current law, will now be decided by the court, with the ICC representing the public interest before the court, rather than in the first instance by the ICC. Liquidation of the debtor is not, per se, contrary to the public interest.

AMENDMENTS

1984—Subsec. (a)(4). Pub. L. 98-353 substituted “consistent” for “compatible”.

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.

§ 1174. Liquidation

On request of a party in interest and after notice and a hearing, the court may, or, if a plan has not been confirmed under section 1173 of this title before five years after the date of the order for relief, the court shall, order the trustee to cease the debtor’s operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2644.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1174 of the House amendment represents a compromise between the House bill and Senate amendment on the issue of liquidation of a railroad. The provision permits a party in interest at any time to request liquidation. In addition, if a plan has not been confirmed under section 1173 of the House amendment before 5 years after the date of order for relief, the court must order the trustee to cease the debtor’s operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of title 11. The approach differs from the conversion to chapter 7 under section 1174 of the Senate bill in order to make special provisions contained in subchapter IV of chapter 11 applicable to liquidation. However, maintaining liquidation in the context of chapter 11 is not intended to delay liquidation of the railroad to a different extent than if the case were converted to chapter 7.

Although the House amendment does not adopt provisions contained in sections 1170(1), (2), (3), or (5), of the Senate amendment such provisions are contained explicitly or implicitly in section 1123 of the House amendment.

SENATE REPORT NO. 95-989

Section 1174 permits the court to convert the case to a liquidation under chapter 7 if the court finds that the debtor cannot be reorganized, or if various time limits specified in the subchapter are not met. Section 77 [section 205 of former title 11] does not authorize a liquidation of a railroad under the Bankruptcy Act [former title 11]. If the railroad is not reorganizable, the only action open to the court is to dismiss the petition, which would in all likelihood be followed by a State court receivership, with all of its attendant disadvantages. If reorganization is impossible, the debtor should be liquidated under the Bankruptcy Act.

SUBCHAPTER V—SMALL BUSINESS DEBTOR REORGANIZATION

§ 1181. Inapplicability of other sections

(a) IN GENERAL.—Sections 105(d), 1101(1), 1104, 1105, 1106, 1107, 1108, 1115, 1116, 1121, 1123(a)(8),

1123(c), 1127, 1129(a)(15), 1129(b), 1129(c), 1129(e), and 1141(d)(5) of this title do not apply in a case under this subchapter.

(b) COURT AUTHORITY.—Unless the court for cause orders otherwise, paragraphs (1), (2), and (4) of section 1102(a) and sections 1102(b), 1103, and 1125 of this title do not apply in a case under this subchapter.

(c) SPECIAL RULE FOR DISCHARGE.—If a plan is confirmed under section 1191(b) of this title, section 1141(d) of this title shall not apply, except as provided in section 1192 of this title.

(Added Pub. L. 116-54, §2(a), Aug. 23, 2019, 133 Stat. 1079.)

EFFECTIVE DATE

Section effective 180 days after Aug. 23, 2019, see section 5 of Pub. L. 116-54, set out as an Effective Date of 2019 Amendment note under section 101 of this title.

§ 1182. Definitions

In this subchapter:

(1) DEBTOR.—The term “debtor” means a small business debtor.

(2) DEBTOR IN POSSESSION.—The term “debtor in possession” means the debtor, unless removed as debtor in possession under section 1185(a) of this title.

(Added Pub. L. 116-54, §2(a), Aug. 23, 2019, 133 Stat. 1079.)

EFFECTIVE DATE

Section effective 180 days after Aug. 23, 2019, see section 5 of Pub. L. 116-54, set out as an Effective Date of 2019 Amendment note under section 101 of this title.

§ 1183. Trustee

(a) IN GENERAL.—If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under this subchapter, and if such individual qualifies as a trustee under section 322 of this title, then that individual shall serve as trustee in any case under this subchapter. Otherwise, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case, as necessary.

(b) DUTIES.—The trustee shall—

(1) perform the duties specified in paragraphs (2), (5), (6), (7), and (9) of section 704(a) of this title;

(2) perform the duties specified in paragraphs (3), (4), and (7) of section 1106(a) of this title, if the court, for cause and on request of a party in interest, the trustee, or the United States trustee, so orders;

(3) appear and be heard at the status conference under section 1188 of this title and any hearing that concerns—

(A) the value of property subject to a lien;

(B) confirmation of a plan filed under this subchapter;

(C) modification of the plan after confirmation; or

(D) the sale of property of the estate;

(4) ensure that the debtor commences making timely payments required by a plan confirmed under this subchapter;

(5) if the debtor ceases to be a debtor in possession, perform the duties specified in section