

administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

(A) any actual damages sustained by the debtor as a result of the violation; and

(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.

(Added Pub. L. 109-8, title I, §106(e)(1), Apr. 20, 2005, 119 Stat. 38; amended Pub. L. 111-327, §2(a)(8), Dec. 22, 2010, 124 Stat. 3558.)

AMENDMENTS

2010—Subsec. (d)(1)(E). Pub. L. 111-327 substituted “; and” for period at end and realigned margin.

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM

Pub. L. 109-8, title I, §105, Apr. 20, 2005, 119 Stat. 36, provided that the Director of the Executive Office for United States Trustees develop a financial manage-

ment training curriculum and materials to educate individual debtors on how to better manage their finances, with 6 judicial districts used to test the program for 18 months beginning not later than 270 days after Apr. 20, 2005, and within 3 months after the conclusion of an evaluation, the Director should report to the Speaker of the House of Representatives and the President pro tempore of the Senate on the appropriate findings.

§ 112. Prohibition on disclosure of name of minor children

The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.

(Added Pub. L. 109-8, title II, §233(a), Apr. 20, 2005, 119 Stat. 74.)

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

CHAPTER 3—CASE ADMINISTRATION

SUBCHAPTER I—COMMENCEMENT OF A CASE

- Sec.
- 301. Voluntary cases.
- 302. Joint cases.
- 303. Involuntary cases.
- [304. Repealed.]
- 305. Abstention.
- 306. Limited appearance.
- 307. United States trustee.
- 308. Debtor reporting requirements.

SUBCHAPTER II—OFFICERS

- 321. Eligibility to serve as trustee.
- 322. Qualification of trustee.
- 323. Role and capacity of trustee.
- 324. Removal of trustee or examiner.
- 325. Effect of vacancy.
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- 327. Employment of professional persons.
- 328. Limitation on compensation of professional persons.
- 329. Debtor's transactions with attorneys.
- 330. Compensation of officers.
- 331. Interim compensation.
- 332. Consumer privacy ombudsman.
- 333. Appointment of patient care ombudsman.

SUBCHAPTER III—ADMINISTRATION

- 341. Meetings of creditors and equity security holders.
- 342. Notice.
- 343. Examination of the debtor.
- 344. Self-incrimination; immunity.
- 345. Money of estates.
- 346. Special provisions related to the treatment of State and local taxes.

Sec.	
347.	Unclaimed property.
348.	Effect of conversion.
349.	Effect of dismissal.
350.	Closing and reopening cases.
351.	Disposal of patient records.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

361.	Adequate protection.
362.	Automatic stay.
363.	Use, sale, or lease of property.
364.	Obtaining credit.
365.	Executory contracts and unexpired leases.
366.	Utility service.

AMENDMENTS

2010—Pub. L. 111-327, §2(a)(49), Dec. 22, 2010, 124 Stat. 3562, inserted “patient care” before “ombudsman” in item 333.

2005—Pub. L. 109-8, title II, §232(c), title IV, §434(a)(2), title VII, §719(a)(2), title VIII, §802(d)(4), title XI, §§1102(b), 1104(a)(2), Apr. 20, 2005, 119 Stat. 74, 111, 133, 146, 190, 192, added items 308, 332, 333, and 351, substituted “Special provisions related to the treatment of State and local taxes” for “Special tax provisions” in item 346, and struck out item 304 “Cases ancillary to foreign proceedings”.

1986—Pub. L. 99-554, title II, §205(b), Oct. 27, 1986, 100 Stat. 3098, added item 307.

SUBCHAPTER I—COMMENCEMENT OF A CASE

§ 301. Voluntary cases

(a) A voluntary case under a chapter of this title is commenced by the filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter.

(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2558; Pub. L. 109-8, title V, §501(b), Apr. 20, 2005, 119 Stat. 118.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Sections 301, 302, 303, and 304 are all modified in the House amendment to adopt an idea contained in sections 301 and 303 of the Senate amendment requiring a petition commencing a case to be filed with the bankruptcy court. The exception contained in section 301 of the Senate bill relating to cases filed under chapter 9 is deleted. Chapter 9 cases will be handled by a bankruptcy court as are other title 11 cases.

SENATE REPORT NO. 95-989

Section 301 specifies the manner in which a voluntary bankruptcy case is commenced. The debtor files a petition under this section under the particular operative chapter of the bankruptcy code under which he wishes to proceed. The filing of the petition constitutes an order for relief in the case under that chapter. The section contains no change from current law, except for the use of the phrase “order for relief” instead of “adjudication.” The term adjudication is replaced by a less pejorative phrase in light of the clear power of Congress to permit voluntary bankruptcy without the necessity for an adjudication, as under the 1898 act [former title 11], which was adopted when voluntary bankruptcy was a concept not thoroughly tested.

AMENDMENTS

2005—Pub. L. 109-8 designated existing provisions as subsec. (a), struck out “The commencement of a voluntary case under a chapter of this title constitutes an

order for relief under such chapter.” at end, and added subsec. (b).

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.

§ 302. Joint cases

(a) A joint case under a chapter of this title is commenced by the filing with the bankruptcy court of a single petition under such chapter by an individual that may be a debtor under such chapter and such individual’s spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under such chapter.

(b) After the commencement of a joint case, the court shall determine the extent, if any, to which the debtors’ estates shall be consolidated. (Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2558.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

A joint case is a voluntary bankruptcy case concerning a wife and husband. Under current law, there is no explicit provision for joint cases. Very often, however, in the consumer debtor context, a husband and wife are jointly liable on their debts, and jointly hold most of their property. A joint case will facilitate consolidation of their estates, to the benefit of both the debtors and their creditors, because the cost of administration will be reduced, and there will be only one filing fee.

Section 302 specifies that a joint case is commenced by the filing of a petition under an appropriate chapter by an individual and that individual’s spouse. Thus, one spouse cannot take the other into bankruptcy without the other’s knowledge or consent. The filing of the petition constitutes an order for relief under the chapter selected.

Subsection (b) requires the court to determine the extent, if any, to which the estates of the two debtors will be consolidated; that is, assets and liabilities combined in a single pool to pay creditors. Factors that will be relevant in the court’s determination include the extent of jointly held property and the amount of jointly-owned debts. The section, of course, is not license to consolidate in order to avoid other provisions of the title to the detriment of either the debtors or their creditors. It is designed mainly for ease of administration.

§ 303. Involuntary cases

(a) An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer, family farmer, or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.

(b) An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title—

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount, or an indenture trustee representing such a holder, if such noncontingent, undisputed claims aggregate at least \$10,000¹

¹ See Adjustment of Dollar Amounts notes below.