

(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

(B) a new deadline is imposed at the time the extension is granted; and

(C) the order extending time is signed before the existing deadline has expired.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2631; Pub. L. 98-353, title III, §506, July 10, 1984, 98 Stat. 385; Pub. L. 99-554, title II, §283(u), Oct. 27, 1986, 100 Stat. 3118; Pub. L. 103-394, title II, §217(d), Oct. 22, 1994, 108 Stat. 4127; Pub. L. 109-8, title IV, §§411, 437, Apr. 20, 2005, 119 Stat. 106, 113.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1121 of the House amendment is derived from section 1121 of the House bill; section 1121(c)(1) will be satisfied automatically in a case under subchapter IV of title 11.

##### SENATE REPORT NO. 95-989

Subsection (a) permits the debtor to file a reorganization plan with a petition commencing a voluntary case or at any time during a voluntary or involuntary case.

Subsection (b) gives the debtor the exclusive right to file a plan during the first 120 days of the case. There are exceptions, however, enumerated in subsection (c). If a trustee has been appointed, if the debtor does not meet the 120-day deadline, or if the debtor fails to obtain the required consent within 180 days after the filing of the petition, any party in interest may propose a plan. This includes the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, and an indenture trustee. The list is not exhaustive. In the case of a public company, a trustee is appointed within 10 days of the petition. In such a case, for all practical purposes, any party in interest may file a plan.

Subsection (d) permits the court, for cause, to increase or reduce the 120-day and 180-day periods specified. Since, the debtor has an exclusive privilege for 6 months during which others may not file a plan, the granted extension should be based on a showing of some promise of probable success. An extension should not be employed as a tactical device to put pressure on parties in interest to yield to a plan they consider unsatisfactory.

#### Editorial Notes

##### AMENDMENTS

2005—Subsec. (d). Pub. L. 109-8, §411, designated existing provisions as par. (1), substituted “Subject to paragraph (2), on” for “On”, and added par. (2).

Subsec. (e). Pub. L. 109-8, §437, added subsec. (e) and struck out former subsec. (e) which read as follows: “In a case in which the debtor is a small business and elects to be considered a small business—

“(1) only the debtor may file a plan until after 100 days after the date of the order for relief under this chapter;

“(2) all plans shall be filed within 160 days after the date of the order for relief; and

“(3) on request of a party in interest made within the respective periods specified in paragraphs (1) and (2) and after notice and a hearing, the court may—

“(A) reduce the 100-day period or the 160-day period specified in paragraph (1) or (2) for cause; and

“(B) increase the 100-day period specified in paragraph (1) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.”

1994—Subsec. (e). Pub. L. 103-394 added subsec. (e).

1986—Subsec. (d). Pub. L. 99-554 inserted reference to subsection (b) of this section.

1984—Subsec. (c)(3). Pub. L. 98-353, §506(a), substituted “of claims or interests that is” for “the claims or interests of which are”.

Subsec. (d). Pub. L. 98-353, §506(b), inserted “made within the respective periods specified in subsection (c) of this section”.

#### Statutory Notes and Related Subsidiaries

##### 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 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

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

##### 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.

#### § 1122. Classification of claims or interests

(a) Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.

(b) A plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2631.)

#### HISTORICAL AND REVISION NOTES

##### SENATE REPORT NO. 95-989

This section codifies current case law surrounding the classification of claims and equity securities. It requires classification based on the nature of the claims or interests classified, and permits inclusion of claims or interests in a particular class only if the claim or interest being included is substantially similar to the other claims or interests of the class.

Subsection (b), also a codification of existing practice, contains an exception. The plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience.

#### § 1123. Contents of plan

(a) Notwithstanding any otherwise applicable nonbankruptcy law, a plan shall—