

court in the United States, including State courts. The protection is necessary to allow the foreign representative to present his case and the case of the foreign estate, without waiving the normal jurisdictional rules of the foreign country. That is, creditors in this country will still have to seek redress against the foreign estate according to the host country's jurisdictional rules. Any other result would permit local creditors to obtain unfair advantage by filing an involuntary case, thus requiring the foreign representative to appear, and then obtaining local jurisdiction over the representative in connection with his appearance in this country. That kind of bankruptcy law would legalize an ambush technique that has frequently been rejected by the common law in other contexts.

However, the bankruptcy court is permitted under section 306 to condition any relief under section 303, 304, or 305 on the compliance by the foreign representative with the orders of the bankruptcy court. The last provision is not *carte blanche* to the bankruptcy court to require the foreign representative to submit to jurisdiction in other courts contrary to the general policy of the section. It is designed to enable the bankruptcy court to enforce its own orders that are necessary to the appropriate relief granted under section 303, 304, or 305.

Editorial Notes

AMENDMENTS

2005—Pub. L. 109-8 struck out “, 304,” after “section 303” in two places.

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.

§ 307. United States trustee

The United States trustee may raise and may appear and be heard on any issue in any case or proceeding under this title but may not file a plan pursuant to section 1121(c) of this title.

(Added Pub. L. 99-554, title II, §205(a), Oct. 27, 1986, 100 Stat. 3098.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Effective date and applicability of section 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.

STANDING AND AUTHORITY OF BANKRUPTCY ADMINISTRATOR

Pub. L. 101-650, title III, §317(b), Dec. 1, 1990, 104 Stat. 5115, provided that: “A bankruptcy administrator may raise and may appear and be heard on any issue in any case under title 11, United States Code, but may not file a plan pursuant to section 1121(c) of such title.”

§ 308. Debtor reporting requirements

(a) For purposes of this section, the term “profitability” means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

(b) A debtor in a small business case shall file periodic financial and other reports containing information including—

(1) the debtor's profitability;

(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

(4) whether the debtor is—

(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

(B) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

(5) if the debtor is not in compliance with the requirements referred to in paragraph (4)(A) or filing tax returns and other required government filings and making the payments referred to in paragraph (4)(B), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

(6) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.

(Added Pub. L. 109-8, title IV, §434(a)(1), Apr. 20, 2005, 119 Stat. 111; amended Pub. L. 111-327, §2(a)(10), Dec. 22, 2010, 124 Stat. 3558.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b)(4)(A), are set out in the Appendix to this title.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-327, §2(a)(10)(A), substituted “debtor in a small business case” for “small business debtor” in introductory provisions.

Subsec. (b)(4) to (6). Pub. L. 111-327, §2(a)(10)(B), struck out subpar. (A) designation before “whether the debtor” in par. (4) and redesignated cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, redesignated former subpars. (B) and (C) of par. (4) as pars. (5) and (6), respectively, and, in par. (5), substituted “paragraph (4)(A)” for “subparagraph (A)(i)” and “paragraph (4)(B)” for “subparagraph (A)(ii)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 109-8, title IV, §434(b), Apr. 20, 2005, 119 Stat. 111, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a) [See Bankruptcy Form No. 25C, eff. Dec. 1, 2008].”

SUBCHAPTER II—OFFICERS

§ 321. Eligibility to serve as trustee

(a) A person may serve as trustee in a case under this title only if such person is—

(1) an individual that is competent to perform the duties of trustee and, in a case under chapter 7, 12, or 13 of this title, resides or has an office in the judicial district within which the case is pending, or in any judicial district adjacent to such district; or