

(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

- (i) the absence of security before the date of the filing of the petition;
- (ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or
- (iii) the availability of an administrative expense priority.

(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2578; Pub. L. 98-353, title III, §443, July 10, 1984, 98 Stat. 373; Pub. L. 109-8, title IV, §417, Apr. 20, 2005, 119 Stat. 108; Pub. L. 116-260, div. FF, title X, §1001(h), Dec. 27, 2020, 134 Stat. 3221.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 366 of the House amendment represents a compromise between comparable provisions contained in H.R. 8200 as passed by the House and the Senate amendment. Subsection (a) is modified so that the applicable date is the date of the order for relief rather than the date of the filing of the petition. Subsection (b) contains a similar change but is otherwise derived from section 366(b) of the Senate amendment, with the exception that a time period for continued service of 20 days rather than 10 days is adopted.

SENATE REPORT NO. 95-989

This section gives debtors protection from a cut-off of service by a utility because of the filing of a bankruptcy case. This section is intended to cover utilities that have some special position with respect to the debtor, such as an electric company, gas supplier, or telephone company that is a monopoly in the area so that the debtor cannot easily obtain comparable service from another utility. The utility may not alter, refuse, or discontinue service because of the non-payment of a bill that would be discharged in the bankruptcy case. Subsection (b) protects the utility company by requiring the trustee or the debtor to provide, within ten days, adequate assurance of payment for service provided after the date of the petition.

Editorial Notes

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-260, §1001(h)(2), struck out subsec. (d) which read as follows: “Notwithstanding any other provision of this section, a utility may not alter, refuse, or discontinue service to a debtor who does not furnish adequate assurance of payment under this section if the debtor—

- “(1) is an individual;
- “(2) makes a payment to the utility for any debt owed to the utility for service provided during the 20-day period beginning on the date of the order for relief; and
- “(3) after the date on which the 20-day period beginning on the date of the order for relief ends, makes a payment to the utility for services provided during the pendency of case when such a payment becomes due.”

- Pub. L. 116-260, §1001(h)(1), added subsec. (d).
- 2005—Subsec. (a). Pub. L. 109-8, §417(1), substituted “subsections (b) and (c)” for “subsection (b)”.
- Subsec. (c). Pub. L. 109-8, §417(2), added subsec. (c).
- 1984—Subsec. (a). Pub. L. 98-353 inserted “of the commencement of a case under this title or” after “basis”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. FF, title X, §1001(h)(2), Dec. 27, 2020, 134 Stat. 3221, provided that the amendment made by section 1001(h)(2) is effective on the date that is 1 year after Dec. 27, 2020.

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 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.

CHAPTER 5—CREDITORS, THE DEBTOR, AND THE ESTATE

SUBCHAPTER I—CREDITORS AND CLAIMS

- Sec.
- 501. Filing of proofs of claims or interests.
- 502. Allowance of claims or interests.
- 503. Allowance of administrative expenses.
- 504. Sharing of compensation.
- 505. Determination of tax liability.
- 506. Determination of secured status.
- 507. Priorities.
- 508. Effect of distribution other than under this title.
- 509. Claims of codebtors.
- 510. Subordination.
- 511. Rate of interest on tax claims.

SUBCHAPTER II—DEBTOR'S DUTIES AND BENEFITS

- 521. Debtor's duties.
- 522. Exemptions.
- 523. Exceptions to discharge.
- 524. Effect of discharge.
- 525. Protection against discriminatory treatment.
- 526. Restrictions on debt relief agencies.
- 527. Disclosures.
- 528. Requirements for debt relief agencies.

SUBCHAPTER III—THE ESTATE

- 541. Property of the estate.
- 542. Turnover of property to the estate.
- 543. Turnover of property by a custodian.
- 544. Trustee as lien creditor and as successor to certain creditors and purchasers.
- Statutory liens.
- 546. Limitations on avoiding powers.
- 547. Preferences.
- 548. Fraudulent transfers and obligations.
- 549. Postpetition transactions.
- 550. Liability of transferee of avoided transfer.
- 551. Automatic preservation of avoided transfer.
- 552. Postpetition effect of security interest.
- 553. Setoff.
- 554. Abandonment of property of the estate.
- 555. Contractual right to liquidate, terminate, or accelerate a securities contract.
- 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.

Sec. 557.	Expedited determination of interests in, and abandonment or other disposition of grain assets.
558.	Defenses of the estate.
559.	Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
560.	Contractual right to liquidate, terminate, or accelerate a swap agreement.
561.	Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.
562.	Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements.

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-327, §2(a)(50), Dec. 22, 2010, 124 Stat. 3562, substituted “and master netting agreements” for “or master netting agreements” in item 562.

2005—Pub. L. 109-8, title II, §§227(b), 228(b), 229(b), title VII, §704(b), title IX, §§907(k)(2), (p)(1), 910(a)(2), Apr. 20, 2005, 119 Stat. 69, 71, 72, 126, 181, 182, 184, added items 511, 526 to 528, 561 and 562 and substituted “Contractual right to liquidate, terminate, or accelerate a securities contract” for “Contractual right to liquidate a securities contract” in item 555, “Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract” for “Contractual right to liquidate a commodity contract or forward contract” in item 556, “Contractual right to liquidate, terminate, or accelerate a repurchase agreement” for “Contractual right to liquidate a repurchase agreement” in item 559, and “Contractual right to liquidate, terminate, or accelerate a swap agreement” for “Contractual right to terminate a swap agreement” in item 560.

1990—Pub. L. 101-311, title I, §106(b), June 25, 1990, 104 Stat. 268, added item 560.

1986—Pub. L. 99-554, title II, §283(q), Oct. 27, 1986, 100 Stat. 3118, amended items 557 to 559 generally, substituting “interests in, and abandonment or other disposition of grain assets” for “in and disposition of grain” in item 557.

1984—Pub. L. 98-353, title III, §§352(b), 396(b), 470(b), July 10, 1984, 98 Stat. 361, 366, 380, added items 557, 558, and 559.

1982—Pub. L. 97-222, §6(b), July 27, 1982, 96 Stat. 237, added items 555 and 556.

SUBCHAPTER I—CREDITORS AND CLAIMS

§ 501. Filing of proofs of claims or interests

(a) A creditor or an indenture trustee may file a proof of claim. An equity security holder may file a proof of interest.

(b) If a creditor does not timely file a proof of such creditor’s claim, an entity that is liable to such creditor with the debtor, or that has secured such creditor, may file a proof of such claim.

(c) If a creditor does not timely file a proof of such creditor’s claim, the debtor or the trustee may file a proof of such claim.

(d) A claim of a kind specified in section 502(e)(2), 502(f), 502(g), 502(h) or 502(i) of this title may be filed under subsection (a), (b), or (c) of this section the same as if such claim were a claim against the debtor and had arisen before the date of the filing of the petition.

(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the

requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2578; Pub. L. 98-353, title III, §444, July 10, 1984, 98 Stat. 373; Pub. L. 109-8, title VII, §702, Apr. 20, 2005, 119 Stat. 125; Pub. L. 116-260, div. FF, title X, §1001(d)(1), (3)(A), Dec. 27, 2020, 134 Stat. 3217, 3218.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

The House amendment adopts section 501(b) of the Senate amendment leaving the Rules of Bankruptcy Procedure free to determine where a proof of claim must be filed.

Section 501(c) expands language contained in section 501(c) of the House bill and Senate amendment to permit the debtor to file a proof of claim if a creditor does not timely file a proof of the creditor’s claim in a case under title 11.

The House amendment deletes section 501(e) of the Senate amendment as a matter to be left to the rules of bankruptcy procedure. It is anticipated that the rules will enable governmental units, like other creditors, to have a reasonable time to file proofs of claim in bankruptcy cases.

For purposes of section 501, a proof of “interest” includes the interest of a general or limited partner in a partnership, the interest of a proprietor in a sole proprietorship, or the interest of a common or preferred stockholder in a corporation.

SENATE REPORT NO. 95-989

This section governs the means by which creditors and equity security holders present their claims or interests to the court. Subsection (a) permits a creditor to file a proof of claim or interest. An indenture trustee representing creditors may file a proof of claim on behalf of the creditors he represents.

This subsection is permissive only, and does not require filing of a proof of claim by any creditor. It permits filing where some purpose would be served, such as where a claim that appears on a list filed under proposed 11 U.S.C. 924 or 1111 was incorrectly stated or listed as disputed, contingent, or unliquidated, where a creditor with a lien is undersecured and asserts a claim for the balance of the debt owed him (his unsecured claim, as determined under proposed 11 U.S.C. 506(a)), or in a liquidation case where there will be a distribution of assets to the holders of allowed claims. In other instances, such as in no-asset liquidation cases, in situations where a secured creditor does not assert any claim against the estate and a determination of his claim is not made under proposed 11 U.S.C. 506, or in situations where the claim asserted would be subordinated and the creditor would not recover from the estate in any event, filing of a proof of claim may simply not be necessary. The Rules of Bankruptcy Procedure and practice under the law will guide creditors as to when filing is necessary and when it may be dispensed with. In general, however, unless a claim is listed in a chapter 9 or chapter 11 case and allowed as a result of the list, a proof of claim will be a prerequisite to allowance for unsecured claims, including priority claims and the unsecured portion of a claim asserted by the holder of a lien.

The Rules of Bankruptcy Procedure will set the time limits, the form, and the procedure for filing, which will determine whether claims are timely or tardily filed. The rules governing time limits for filing proofs of claims will continue to apply under section 405(d) of the bill. These provide a 6-month-bar date for the filing of tax claims.

Subsection (b) permits a codebtor, surety, or guarantor to file a proof of claim on behalf of the creditor