

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1304(b) of the House amendment adopts the approach taken in the comparable section of the Senate amendment as preferable to the position taken in the House bill.

SENATE REPORT NO. 95-989

Increased access to the simpler, speedier, and less expensive debtor relief provisions of chapter 13 is accomplished by permitting debtors engaged in business to proceed under chapter 13, provided their income is sufficiently stable and regular to permit compliance with a chapter 13 plan [section 101(24)] and that the debtor (or the debtor and spouse) do not owe liquidated, noncontingent unsecured debts of \$50,000, or liquidated, noncontingent secured debts of \$200,000 (§109(d)).

Section 1304(a) states that a self-employed individual who incurs trade credit in the production of income is a debtor engaged in business.

Subsection (b) empowers a chapter 13 debtor engaged in business to operate his business, subject to the rights, powers and limitations that pertain to a trustee under sections 363(c) and 364 of title 11, and subject to such further limitations and conditions as the court may prescribe.

Subsection (c) requires a chapter 13 debtor engaged in business to file with the court certain financial statements relating to the operation of the business.

Editorial Notes

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-327 substituted “704(a)(8)” for “704(8)”.

1984—Subsec. (b). Pub. L. 98-353, §526, struck out the comma after “of the debtor”.

Subsec. (c). Pub. L. 98-353, §311(b)(2), substituted “section 704(8)” for “section 704(7)”.

Statutory Notes and Related Subsidiaries

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.

§ 1305. Filing and allowance of postpetition claims

(a) A proof of claim may be filed by any entity that holds a claim against the debtor—

(1) for taxes that become payable to a governmental unit while the case is pending; or

(2) that is a consumer debt, that arises after the date of the order for relief under this chapter, and that is for property or services necessary for the debtor's performance under the plan.

(b) Except as provided in subsection (c) of this section, a claim filed under subsection (a) of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date such claim arises, and shall be allowed under section 502(a), 502(b), or 502(c) of this title, or disallowed under section 502(d) or 502(e) of this title, the same as if such claim had arisen before the date of the filing of the petition.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring

the obligation was practicable and was not obtained.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2647.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1305(a)(2) of the House amendment modifies similar provisions contained in the House and Senate bills by restricting application of the paragraph to a consumer debt. Debts of the debtor that are not consumer debts should not be subjected to section 1305(c) or section 1328(d) of the House amendment.

Section 1305(b) of the House amendment represents a technical modification of similar provisions contained in the House bill and Senate amendment.

The House amendment deletes section 1305(d) of the Senate amendment as unnecessary. Section 502(b)(1) is sufficient to disallow any claim to the extent the claim represents the usurious interest or any other charge forbidden by applicable law. It is anticipated that the Rules of Bankruptcy Procedure may require a creditor filing a proof of claim in a case under chapter 13 to include an affirmative statement as contemplated by section 1305(d) of the Senate amendment.

SENATE REPORT NO. 95-989

Section 1305, exclusively applicable in chapter 13 cases, supplements the provisions of sections 501-511 of title 11, dealing with the filing and allowance of claims. Sections 501-511 apply in chapter 13 cases by virtue of section 103(a) of this title. Section 1305(a) provides for the filing of a proof of claim for taxes and other obligations incurred after the filing of the chapter 13 case. Subsection (b) prescribes that section 502 of title 11 governs the allowance of section 1305(a) claims, except that its standards shall be applied as of the date of allowance of the claim, rather than the date of filing of the petition. Subsection (c) requires the disallowance of a postpetition claim for property or services necessary for the debtor's performance under the plan, if the holder of the claim knew or should have known that prior approval by the trustee of the debtor's incurring of the obligation was practicable and was not obtained.

HOUSE REPORT NO. 95-595

Subsection (a) permits the filing of a proof of a claim against the debtor that is for taxes that become payable to a governmental unit while the case is pending, or that arises after the date of the filing of the petition for property or services that are necessary for the debtor's performance under the plan, such as auto repairs in order that the debtor will be able to get to work, or medical bills. The effect of the latter provision, in paragraph (2), is to treat postpetition credit extended to a chapter 13 debtor the same as a prepetition claim for purposes of allowance, distribution, and so on.

§ 1306. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title—

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.