

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2647; Pub. L. 99-554, title II, §257(u), Oct. 27, 1986, 100 Stat. 3116.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1306(a)(2) adopts a provision contained in the Senate amendment in preference to a similar provision contained in the House bill.

SENATE REPORT NO. 95-989

Section 541 is expressly made applicable to chapter 13 cases by section 103(a). Section 1306 broadens the definition of property of the estate for chapter 13 purposes to include all property acquired and all earnings from services performed by the debtor after the commencement of the case.

Subsection (b) nullifies the effect of section 521(3), otherwise applicable, by providing that a chapter 13 debtor need not surrender possession of property of the estate, unless required by the plan or order of confirmation.

Editorial Notes

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-554 inserted reference to chapter 12 in pars. (1) and (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

§ 1307. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

(b) On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors;

(2) nonpayment of any fees and charges required under chapter 123 of title 28;

(3) failure to file a plan timely under section 1321 of this title;

(4) failure to commence making timely payments under section 1326 of this title;

(5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;

(6) material default by the debtor with respect to a term of a confirmed plan;

(7) revocation of the order of confirmation under section 1330 of this title, and denial of

confirmation of a modified plan under section 1329 of this title;

(8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan;

(9) only on request of the United States trustee, failure of the debtor to file, within fifteen days, or such additional time as the court may allow, after the filing of the petition commencing such case, the information required by paragraph (1) of section 521(a);

(10) only on request of the United States trustee, failure to timely file the information required by paragraph (2) of section 521(a); or

(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

(d) Except as provided in subsection (f) of this section, at any time before the confirmation of a plan under section 1325 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 or 12 of this title.

(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.

(f) The court may not convert a case under this chapter to a case under chapter 7, 11, or 12 of this title if the debtor is a farmer, unless the debtor requests such conversion.

(g) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2647; Pub. L. 98-353, title III, §§315, 527, July 10, 1984, 98 Stat. 356, 389; Pub. L. 99-554, title II, §§229, 257(v), Oct. 27, 1986, 100 Stat. 3103, 3116; Pub. L. 109-8, title II, §213(7), title VII, §716(c), Apr. 20, 2005, 119 Stat. 53, 130; Pub. L. 111-327, §2(a)(41), Dec. 22, 2010, 124 Stat. 3562.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1307(a) is derived from the Senate amendment in preference to a comparable provision contained in the House bill.

SENATE REPORT NO. 95-989

Subsections (a) and (b) confirm, without qualification, the rights of a chapter 13 debtor to convert the case to a liquidating bankruptcy case under chapter 7 of title 11, at any time, or to have the chapter 13 case dismissed. Waiver of any such right is unenforceable. Subsection (c) specifies various conditions for the exercise of the power of the court to convert a chapter 13 case to one under chapter 7 or to dismiss the case. Subsection (d) deals with the conversion of a chapter 13 case to one under chapter 11. Subsection (e) prohibits conversion of the chapter 13 case filed by a farmer to chapter 7 or 11 except at the request of the debtor. No case is to be converted from chapter 13 to any other chapter, unless the debtor is an eligible debtor under the new chapter.

HOUSE REPORT NO. 95-595

Subsection (f) reinforces section 109 by prohibiting conversion to a chapter under which the debtor is not eligible to proceed.

Editorial Notes

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-327, §2(a)(41)(A)(i), substituted “subsection (f)” for “subsection (e)” in introductory provisions.

Subsec. (c)(9), (10). Pub. L. 111-327, §2(a)(41)(A)(ii), (iii), substituted “521(a)” for “521”.

Subsec. (d). Pub. L. 111-327, §2(a)(41)(B), substituted “subsection (f)” for “subsection (e)”.

2005—Subsec. (c)(11). Pub. L. 109-8, §213(7), added par. (11).

Subsecs. (e) to (g). Pub. L. 109-8, §716(c), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1986—Subsec. (b). Pub. L. 99-554, §257(v)(1), inserted reference to section 1208 of this title.

Subsec. (c). Pub. L. 99-554, §229(1)(A), inserted “or the United States trustee” after “party in interest” in provisions preceding par. (1).

Subsec. (c)(9), (10). Pub. L. 99-554, §229(1)(B)-(D), added pars. (9) and (10).

Subsec. (d). Pub. L. 99-554, §257(v)(2), inserted reference to chapter 12.

Pub. L. 99-554, §229(2), inserted “or the United States trustee” after “party in interest”.

Subsec. (e). Pub. L. 99-554, §257(v)(3), inserted reference to chapter 12.

1984—Subsec. (b). Pub. L. 98-353, §527(a), inserted a comma after “time”.

Subsec. (c)(4). Pub. L. 98-353, §315(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 98-353, §§315(1), 527(b)(1), redesignated former par. (4) as (5) and inserted “a request made for” before “additional”. Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 98-353, §315(1), redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 98-353, §§315(1), 527(b)(2), redesignated former par. (6) as (7) and substituted “or” for “and”. Former par. (7) redesignated (8).

Subsec. (c)(8). Pub. L. 98-353, §§315(1), 527(b)(3), redesignated former par. (7) as (8) and inserted “other than completion of payments under the plan” after “in the plan”.

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 1986 AMENDMENT

Effective date and applicability of amendment by section 229 of Pub. L. 99-554 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.

Amendment by section 257 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554.

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.

§ 1308. Filing of prepetition tax returns

(a) Not later than the day before the date on which the meeting of the creditors is first sched-

uled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

(B) for any return that is not past due as of the date of the filing of the petition, the later of—

(i) the date that is 120 days after the date of that meeting; or

(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under paragraph (1), if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under paragraph (1) is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under paragraph (1) for—

(A) a period of not more than 30 days for returns described in paragraph (1)(A); and

(B) a period not to extend after the applicable extended due date for a return described in paragraph (1)(B).

(c) For purposes of this section, the term “return” includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.

(Added Pub. L. 109-8, title VII, §716(b)(1), Apr. 20, 2005, 119 Stat. 129; amended Pub. L. 111-327, §2(a)(42), Dec. 22, 2010, 124 Stat. 3562.)

Editorial Notes

REFERENCES IN TEXT

Section 6020 of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 6020 of Title 26, Internal Revenue Code.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-327, §2(a)(42)(C), substituted “paragraph (1)” for “this subsection” wherever appearing in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 111-327, §2(a)(42)(A), substituted “paragraph (1)(A)” for “paragraph (1)”.

Subsec. (b)(2)(B). Pub. L. 111-327, §2(a)(42)(B), substituted “paragraph (1)(B)” for “paragraph (2)”.