

## 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)”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section 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 an Effective Date of 2005 Amendment note under section 101 of this title.

**SUBCHAPTER II—THE PLAN****§ 1321. Filing of plan**

The debtor shall file a plan.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2648.)

**HISTORICAL AND REVISION NOTES**

SENATE REPORT NO. 95-989

Chapter 13 contemplates the filing of a plan only by the debtor.

**§ 1322. Contents of plan**

(a) The plan—

(1) shall provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

(2) shall provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim;

(3) if the plan classifies claims, shall provide the same treatment for each claim within a particular class; and

(4) notwithstanding any other provision of this section, may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.

(b) Subject to subsections (a) and (c) of this section, the plan may—

(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims for a consumer debt of the debtor if an individual is liable on such consumer debt with the debtor differently than other unsecured claims;

(2) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;

(3) provide for the curing or waiving of any default;

(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

(5) notwithstanding paragraph (2) of this subsection, provide for the curing of any default within a reasonable time and mainte-

nance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

(6) provide for the payment of all or any part of any claim allowed under section 1305 of this title;

(7) subject to section 365 of this title, provide for the assumption, rejection, or assignment of any executory contract or unexpired lease of the debtor not previously rejected under such section;

(8) provide for the payment of all or part of a claim against the debtor from property of the estate or property of the debtor;

(9) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity;

(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are non-dischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and

(11) include any other appropriate provision not inconsistent with this title.

(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law—

(1) a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b) until such residence is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law; and

(2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.

(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525<sup>1</sup> per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

<sup>1</sup> See Adjustment of Dollar Amounts notes below.