

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-8, § 802(a)(1), inserted “, and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15” before period.

Subsec. (k). Pub. L. 109-8, § 802(a)(2), added subsec. (k).

2000—Subsecs. (e) to (j). Pub. L. 106-554 added subsec. (e) and redesignated former subsecs. (e) to (i) as (f) to (j), respectively.

1986—Subsec. (a). Pub. L. 99-554, § 252(1), inserted reference to chapter 12.

Subsec. (i). Pub. L. 99-554, § 252(2), added subsec. (i).

1984—Subsec. (c). Pub. L. 98-353 substituted “stockbroker” for “stockholder”.

1982—Subsec. (d). Pub. L. 97-222 struck out “except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant” after “concerning a commodity broker”.

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

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.

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.

§ 104. Adjustment of dollar amounts

(a) On April 1, 1998, and at each 3-year interval ending on April 1 thereafter, each dollar amount in effect under sections 101(3), 101(18), 101(19A), 101(51D), 109(e), 303(b), 507(a), 522(d), 522(f)(3) and 522(f)(4), 522(n), 522(p), 522(q), 523(a)(2)(C), 541(b), 547(c)(9), 707(b), 1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28 immediately before such April 1 shall be adjusted—

(1) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and

(2) to round to the nearest \$25 the dollar amount that represents such change.

(b) Not later than March 1, 1998, and at each 3-year interval ending on March 1 thereafter, the Judicial Conference of the United States shall publish in the Federal Register the dollar amounts that will become effective on such April 1 under sections 101(3), 101(18), 101(19A), 101(51D), 109(e), 303(b), 507(a), 522(d), 522(f)(3) and 522(f)(4), 522(n), 522(p), 522(q), 523(a)(2)(C), 541(b), 547(c)(9), 707(b), 1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28.

(c) Adjustments made in accordance with subsection (a) shall not apply with respect to cases commenced before the date of such adjustments.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2555; Pub. L. 103-394, title I, § 108(e), Oct. 22, 1994, 108 Stat. 4112; Pub. L. 109-8, title I, § 102(j), title II, §§ 224(e)(2), 226(b), title III, § 322(b), title IV,

§ 432(c), title X, § 1002, title XII, § 1202, Apr. 20, 2005, 119 Stat. 35, 65, 67, 97, 110, 186, 193; Pub. L. 110-406, § 7, Oct. 13, 2008, 122 Stat. 4293.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 104 represents a compromise between the House bill and the Senate amendment with respect to the adjustment of dollar amounts in title 11. The House amendment authorizes the Judicial Conference of the United States to transmit a recommendation for the uniform percentage of adjustment for each dollar amount in title 11 and in 28 U.S.C. 1930 to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year thereafter. The requirement in the House bill that each such recommendation be based only on any change in the cost-of-living increase during the period immediately preceding the recommendation is deleted.

SENATE REPORT NO. 95-989

This section requires that the Director of the Administrative Office of the U. S. Courts report to Congress and the President before Oct. 1, 1985, and before May 1 every 6 years thereafter a recommendation for adjustment in dollar amounts found in this title. The Committee feels that regular adjustment of the dollar amounts by the Director will conserve congressional time and yet assure that the relative dollar amounts used in the bill are maintained. Changes in the cost of living should be a significant, but not necessarily the only, factor considered by the Director. The fact that there has been an increase in the cost of living does not necessarily mean that an adjustment of dollar amounts would be needed or warranted.

HOUSE REPORT NO. 95-595

This section requires the Judicial Conference to report to the Congress every four years after the effective date of the bankruptcy code any changes that have occurred in the cost of living during the preceding four years, and the appropriate adjustments to the dollar amounts in the bill. The dollar amounts are found primarily in the exemption section (11 U.S.C. 522), the wage priority (11 U.S.C. 507), and the eligibility for chapter 13 (11 U.S.C. 109). This section requires that the Conference recommend uniform percentage changes in these amounts based solely on cost of living changes. The dollar amounts in the bill would not change on that recommendation, absent Congressional veto. Instead, Congress is required to take affirmative action, by passing a law amending the appropriate section, if it wishes to accomplish the change.

If the Judicial Conference has policy recommendations concerning the appropriate dollar amounts in the bankruptcy code based other than on cost of living considerations there are adequate channels through which it may communicate its views. This section is solely for the housekeeping function of maintaining the dollar amounts in the code at fairly constant real dollar levels.

AMENDMENTS

2008—Pub. L. 110-406 redesignated subsec. (b)(1) as (a), subpars. (A) and (B) of subsec. (b)(1) as pars. (1) and (2), respectively, of subsec. (a), and pars. (2) and (3) of subsec. (b) as subsecs. (b) and (c), respectively, substituted “subsection (a)” for “paragraph (1)” in subsec. (c), and struck out former subsec. (a) which read as follows: “The Judicial Conference of the United States shall transmit to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year after May 1, 1985, a recommendation for the uniform percentage adjustment of each dollar amount in this title and in section 1930 of title 28.”

2005—Subsec. (b)(1). Pub. L. 109-8, § 1202(1)-(4), in introductory provisions, inserted “101(19A),” after “101(18),”, “522(f)(3) and 522(f)(4),” after “522(d),”, and

“541(b), 547(c)(9),” after “523(a)(2)(C),” and substituted “1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28” for “and 1325(b)(3)”.

Pub. L. 109-8, §1002, inserted “101(18),” after “101(3),” in introductory provisions.

Pub. L. 109-8, §432(c), inserted “101(51D),” after “101(3),” in introductory provisions.

Pub. L. 109-8, §322(b), inserted “522(p), 522(q),” after “522(n),” in introductory provisions.

Pub. L. 109-8, §226(b), inserted “101(3),” after “sections” in introductory provisions.

Pub. L. 109-8, §224(e)(2), inserted “522(n),” after “522(d),” in introductory provisions.

Pub. L. 109-8, §102(j), substituted “523(a)(2)(C), 707(b), and 1325(b)(3)” for “and 523(a)(2)(C)” in introductory provisions.

Subsec. (b)(2). Pub. L. 109-8, §1202(1)–(3), (5), inserted “101(19A),” after “101(18),”, “522(f)(3) and 522(f)(4),” after “522(d),”, and “541(b), 547(c)(9),” after “523(a)(2)(C),” and substituted “1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28” for “and 1325(b)(3) of this title”.

Pub. L. 109-8, §1002, inserted “101(18),” after “101(3),”.

Pub. L. 109-8, §432(c), inserted “101(51D),” after “101(3),”.

Pub. L. 109-8, §322(b), inserted “522(p), 522(q),” after “522(n),”.

Pub. L. 109-8, §226(b), inserted “101(3),” after “sections”.

Pub. L. 109-8, §224(e)(2), inserted “522(n),” after “522(d),”.

Pub. L. 109-8, §102(j), substituted “523(a)(2)(C), 707(b), and 1325(b)(3)” for “and 523(a)(2)(C)”.

1994—Pub. L. 103-394 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, with amendments by sections 102(j), 224(e)(2), 226(b), 432(c), 1002, and 1202 of Pub. L. 109-8 not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, and amendment by section 322(b) of Pub. L. 109-8 applicable with respect to cases commenced under this title on or after Apr. 20, 2005, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

ADJUSTMENT OF DOLLAR AMOUNTS

By notice dated Feb. 14, 2007, 72 F.R. 7082, the Judicial Conference of the United States adjusted the dollar amounts in provisions specified in former subsec. (b) of this section, effective Apr. 1, 2007, as follows:

28 U.S.C.	Dollar amount to be adjusted	New (adjusted) dollar amount
1409(b)—a trustee may commence a proceeding arising in or related to a case to recover:		
(1)—money judgment of or property worth less than.	\$1,000	\$1,100
(2)—a consumer debt less than ..	15,000	16,425
(3)—a non consumer debt against a non insider less than.	10,000	10,950
11 U.S.C.	Dollar amount to be adjusted	New (adjusted) dollar amount
Section 101(3)—definition of assisted person.	\$150,000	\$164,250
Section 101(18)—definition of family farmer.	3,237,000 ¹	3,544,525 ¹

11 U.S.C.	Dollar amount to be adjusted	New (adjusted) dollar amount
101(19A)—definition of family fisherman.	1,500,000 ¹	1,642,500 ¹
101(51D)—definition of small business debtor.	2,000,000 ¹	2,190,000 ¹
Section 109(e)—allowable debt limits for individual filing bankruptcy under Chapter 13.	307,675 ¹ 922,975 ¹	336,900 ¹ 1,010,650 ¹
Section 303(b)—minimum aggregate claims needed for the commencement of involuntary chapter 7 or chapter 11 bankruptcy:		
(1)—in paragraph (1)	12,300	13,475
(2)—in paragraph (2)	12,300	13,475
Section 507(a)—priority expenses and claims		
(1)—in paragraph (4)	10,000	10,950
(2)—in paragraph (5)	10,000	10,950
(3)—in paragraph (6)	4,925	5,400
(4)—in paragraph (7)	2,225	2,425
Section 522(d)—value of property exemptions allowed to the debtor		
(1)—in paragraph (1)	18,450	20,200
(2)—in paragraph (2)	2,950	3,225
(3)—in paragraph (3)	475	525
(4)—in paragraph (4)	9,850	10,775
(5)—in paragraph (5)	1,225	1,350
(6)—in paragraph (6)	975	1,075
(7)—in paragraph (8)	9,250	10,125
(8)—in paragraph (11)(D)	1,850	2,025
(9)—in paragraph (11)(D)	9,850	10,775
(10)—in paragraph (11)(D)	18,450	20,200
522(f)(3)—exception to lien avoidance under certain state laws.	5,000	5,475
522(f)(4)—items excluded from definition of household goods for lien avoidance purposes.	500 ¹	550 ¹
522(n)—maximum aggregate value of assets in individual retirement accounts exempted.	1,000,000	1,095,000
522(p)—qualified homestead exemption.	125,000	136,875
522(q)—state homestead exemption.	125,000	136,875
523(a)(2)(C)—exceptions to discharge:		
in subclause (i)(I)—consumer debts, incurred < = 90 days before filing owed to a single creditor in the aggregate.	500	550
in subclause (i)(II)—cash advances incurred < = 70 days before filing in the aggregate.	750	825
541(b)—property of the estate exclusions:		
(1)—in paragraph (5)(C)—education IRA funds in the aggregate.	5,000	5,475
(2)—in paragraph (6)(C)—pre-purchased tuition credits in the aggregate.	5,000	5,475
547(c)(9)—preferences, trustee may not avoid a transfer if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of property is less than.	5,000	5,475
707(b)—dismissal of a case or conversion to a case under chapter 11 or 13 (means test):		
(1)—in paragraph (2)(A)(i)(I)	6,000	6,575
(2)—in paragraph (2)(A)(i)(II)	10,000	10,950
(3)—in paragraph (2)(A)(ii)(IV)	1,500	1,650
(4)—in paragraph (5)(B)	1,000	1,100
(5)—in paragraph 6(C)	525	575
(6)—in paragraph 7(A)	525	575
1322(d)—contents of chapter 13 plan, monthly income.	525 ¹	575 ¹
1325(b)—chapter 13 confirmation of plan, disposable income.	525 ¹	575 ¹
1326(b)(3)—payments to former chapter 7 trustee.	25	25

¹ Each time it appears.

Similar notices by the Judicial Conference of the United States adjusting the dollar amounts in provisions specified in former subsec. (b) of this section, were contained in the following:

Feb. 18, 2004, 69 F.R. 8482, effective Apr. 1, 2004.
 Feb. 13, 2001, 66 F.R. 10910, effective Apr. 1, 2001.
 Feb. 3, 1998, 63 F.R. 7179, effective Apr. 1, 1998.

§ 105. Power of court

(a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

(b) Notwithstanding subsection (a) of this section, a court may not appoint a receiver in a case under this title.

(c) The ability of any district judge or other officer or employee of a district court to exercise any of the authority or responsibilities conferred upon the court under this title shall be determined by reference to the provisions relating to such judge, officer, or employee set forth in title 28. This subsection shall not be interpreted to exclude bankruptcy judges and other officers or employees appointed pursuant to chapter 6 of title 28 from its operation.

(d) The court, on its own motion or on the request of a party in interest—

(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and

(2) unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure, issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including an order that—

(A) sets the date by which the trustee must assume or reject an executory contract or unexpired lease; or

(B) in a case under chapter 11 of this title—

(i) sets a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

(ii) sets a date by which the debtor, or trustee if one has been appointed, shall solicit acceptances of a plan;

(iii) sets the date by which a party in interest other than a debtor may file a plan;

(iv) sets a date by which a proponent of a plan, other than the debtor, shall solicit acceptances of such plan;

(v) fixes the scope and format of the notice to be provided regarding the hearing on approval of the disclosure statement; or

(vi) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2555; Pub. L. 98-353, title I, § 118, July 10, 1984, 98 Stat. 344; Pub. L. 99-554, title II, § 203, Oct. 27, 1986, 100 Stat. 3097; Pub. L. 103-394, title I, § 104(a), Oct. 22, 1994, 108 Stat. 4108; Pub. L. 109-8, title IV, § 440, Apr. 20, 2005, 119 Stat. 114.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 105 is derived from section 2a (15) of present law [section 11(a)(15) of former title 11], with two changes. First, the limitation on the power of a bankruptcy judge (the power to enjoin a court being reserved to the district judge) is removed as inconsistent with the increased powers and jurisdiction of the new bankruptcy court. Second, the bankruptcy judge is prohibited from appointing a receiver in a case under title 11 under any circumstances. The bankruptcy code has ample provision for the appointment of a trustee when needed. Appointment of a receiver would simply circumvent the established procedures.

This section is also an authorization, as required under 28 U.S.C. 2283, for a court of the United States to stay the action of a State court. As such, *Toucey v. New York Life Insurance Company*, 314 U.S. 118 (1941), is overruled.

REFERENCES IN TEXT

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (d)(2), are set out in the Appendix to this title.

AMENDMENTS

2005—Subsec. (d). Pub. L. 109-8, § 440(1), struck out “, may” after “party in interest” in introductory provisions.

Subsec. (d)(1). Pub. L. 109-8, § 440(2), added par. (1) and struck out former par. (1) which read as follows: “hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and”.

1994—Subsec. (d). Pub. L. 103-394 added subsec. (d).

1986—Subsec. (a). Pub. L. 99-554 inserted at end “No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.”

1984—Subsecs. (a), (b). Pub. L. 98-353, § 118(1), struck out “bankruptcy” before “court”.

Subsec. (c). Pub. L. 98-353, § 118(2), added subsec. (c).

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 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective July 10, 1984, see section 122(a) of Pub. L. 98-353, set out as an Effective Date note under section 151 of Title 28, Judiciary and Judicial Procedure.

§ 106. Waiver of sovereign immunity

(a) Notwithstanding an assertion of sovereign immunity, sovereign immunity is abrogated as