

(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2606; Pub. L. 98-353, title III, §§312, 475, July 10, 1984, 98 Stat. 355, 381; Pub. L. 99-554, title II, §219, Oct. 27, 1986, 100 Stat. 3100; Pub. L. 105-183, §4(b), June 19, 1998, 112 Stat. 518; Pub. L. 109-8, title I, §102(a), (f), Apr. 20, 2005, 119 Stat. 27, 33; Pub. L. 110-438, §2, Oct. 20, 2008, 122 Stat. 5000.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 707 of the House amendment indicates that the court may dismiss a case only after notice and a hearing.

##### SENATE REPORT NO. 95-989

This section authorizes the court to dismiss a liquidation case only for cause, such as unreasonable delay by the debtor that is prejudicial to creditors or nonpayment of any fees and charges required under chapter 123 [§1911 et seq.] of title 28. These causes are not exhaustive, but merely illustrative. The section does not contemplate, however, that the ability of the debtor to repay his debts in whole or in part constitutes adequate cause for dismissal. To permit dismissal on that ground would be to enact a non-uniform mandatory chapter 13, in lieu of the remedy of bankruptcy.

##### REFERENCES IN TEXT

Section 309 of the Family Violence Prevention and Services Act, referred to in subsec. (b)(2)(A)(ii)(I), was redesignated section 320 of the Act by Pub. L. 108-36, title IV, §415(5), June 25, 2003, 117 Stat. 830, and is classified to section 10421 of Title 42, The Public Health and Welfare.

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b)(4)(A), (B), (5)(A), are set out in the Appendix to this title.

##### AMENDMENTS

2008—Subsec. (b)(2)(D). Pub. L. 110-438 substituted “testing—” for “testing,” in introductory provisions, inserted cl. (i) designation before “if the debtor”, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and added cl. (ii).

2005—Pub. L. 109-8, §102(a)(1), substituted “Dismissal of a case or conversion to a case under chapter 11 or 13” for “Dismissal” in section catchline.

Subsec. (b). Pub. L. 109-8, §102(a)(2), designated existing provisions as par. (1), substituted “trustee (or bankruptcy administrator, if any), or” for “but not at the request or suggestion of” and “an abuse” for “a substantial abuse”, inserted “, or, with the debtor’s consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”, struck out “There shall be a presumption in favor of granting the relief requested by the debtor.” before “In making”, and added pars. (2) to (7).

Subsec. (c). Pub. L. 109-8, §102(f), added subsec. (c).

1998—Subsec. (b). Pub. L. 105-183 inserted at end “In making a determination whether to dismiss a case under this section, the court may not take into consid-

eration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).”

1986—Subsec. (a)(3). Pub. L. 99-554, §219(a), added par. (3).

Subsec. (b). Pub. L. 99-554, §219(b), substituted “motion or on a motion by the United States trustee, but” for “motion and”.

1984—Pub. L. 98-353 designated existing provisions as subsec. (a) and in pars. (1) and (2) substituted “or” for “and”, and added subsec. (b).

##### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-438, §4, Oct. 20, 2008, 122 Stat. 5002, provided that:

“(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act [amending this section and enacting provisions set out as a note under section 101 of this title] and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act [Oct. 20, 2008].

“(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act [amending this section] shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.”

##### 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 1998 AMENDMENT

Amendment by Pub. L. 105-183 applicable to any case brought under an applicable provision of this title that is pending or commenced on or after June 19, 1998, see section 5 of Pub. L. 105-183, set out as a note under section 544 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 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.

##### SCHEDULES OF REASONABLE AND NECESSARY EXPENSES

Pub. L. 109-8, title I, §107, Apr. 20, 2005, 119 Stat. 42, provided that: “For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act [Apr. 20, 2005], issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.”

##### ADJUSTMENT OF DOLLAR AMOUNTS

For adjustment of dollar amounts specified in subsec. (b)(2)(A)(i), (ii)(IV), (5)(B), (6)(C), (7)(A) of this section by the Judicial Conference of the United States, see note set out under section 104 of this title.

##### RULES PROMULGATED BY SUPREME COURT

United States Supreme Court to prescribe general rules implementing the practice and procedure to be followed under subsec. (b) of this section, with section 2075 of Title 28, Judiciary and Judicial Procedure, to

apply with respect to such general rules, see section 320 of Pub. L. 98-353, set out as a note under section 2075 of Title 28.

## SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

### § 721. Authorization to operate business

The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2606.)

#### HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

This section is derived from section 2a(5) of the Bankruptcy Act [section 11(a)(5) of former title 11]. It permits the court to authorize the operation of any business of the debtor for a limited period, if the operation is in the best interest of the estate and consistent with orderly liquidation of the estate. An example is the operation of a watch company to convert watch movements and cases into completed watches which will bring much higher prices than the component parts would have brought.

### § 722. Redemption

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien in full at the time of redemption.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2606; Pub. L. 109-8, title III, §304(2), Apr. 20, 2005, 119 Stat. 79.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 722 of the House amendment adopts the position taken in H.R. 8200 as passed by the House and rejects the alternative contained in section 722 of the Senate amendment.

SENATE REPORT NO. 95-989

This section is new and is broader than rights of redemption under the Uniform Commercial Code. It authorizes an individual debtor to redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a nonpurchase money dischargeable consumer debt. It applies only if the debtor's interest in the property is exempt or has been abandoned.

This right to redeem is a very substantial change from current law. To prevent abuses such as may occur when the debtor deliberately allows the property to depreciate in value, the debtor will be required to pay the fair market value of the goods or the amount of the claim if the claim is less. The right is personal to the debtor and not assignable.

HOUSE REPORT NO. 95-595

This section is new and is broader than rights of redemption under the Uniform Commercial Code. It au-

thorizes an individual debtor to redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt. It applies only if the debtor's interest in the property is exempt or has been abandoned.

The right to redeem extends to the whole of the property, not just the debtor's exempt interest in it. Thus, for example, if a debtor owned a \$2,000 car, subject to a \$1,200 lien, the debtor could exempt his \$800 interest in the car. The debtor is permitted a \$1,500 exemption in a car, proposed 11 U.S.C. 522(d)(2). This section permits him to pay the holder of the lien \$1,200 and redeem the entire car, not just the remaining \$700 of his exemption. The redemption is accomplished by paying the holder of the lien the amount of the allowed claim secured by the lien. The provision amounts to a right of first refusal for the debtor in consumer goods that might otherwise be repossessed. The right of redemption under this section is not waivable.

#### AMENDMENTS

2005—Pub. L. 109-8 inserted “in full at the time of redemption” before period at end.

#### 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.

### § 723. Rights of partnership trustee against general partners

(a) If there is a deficiency of property of the estate to pay in full all claims which are allowed in a case under this chapter concerning a partnership and with respect to which a general partner of the partnership is personally liable, the trustee shall have a claim against such general partner to the extent that under applicable nonbankruptcy law such general partner is personally liable for such deficiency.

(b) To the extent practicable, the trustee shall first seek recovery of such deficiency from any general partner in such partnership that is not a debtor in a case under this title. Pending determination of such deficiency, the court may order any such partner to provide the estate with indemnity for, or assurance of payment of, any deficiency recoverable from such partner, or not to dispose of property.

(c) Notwithstanding section 728(c)<sup>1</sup> of this title, the trustee has a claim against the estate of each general partner in such partnership that is a debtor in a case under this title for the full amount of all claims of creditors allowed in the case concerning such partnership. Notwithstanding section 502 of this title, there shall not be allowed in such partner's case a claim against such partner on which both such partner and such partnership are liable, except to any extent that such claim is secured only by property of such partner and not by property of such partnership. The claim of the trustee under this subsection is entitled to distribution in such partner's case under section 726(a) of this title the same as any other claim of a kind specified in such section.

(d) If the aggregate that the trustee recovers from the estates of general partners under subsection (c) of this section is greater than any de-

<sup>1</sup> See References in Text note below.