

UNITED STATES CODE ANNOTATED
TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE

§ 152. Appointment of bankruptcy judges

(a) (1) ~~The United States court of appeals for the circuit shall appoint bankruptcy judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph.~~ **Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located.**¹ Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). However, upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor. Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution.

(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

Districts	Judges
Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	2
Arizona	7
Arkansas:	
Eastern and Western	3
California:	
Northern	9
Eastern	6
Central	21
Southern	4
Colorado	5
Connecticut	3
Delaware	1

¹Bankruptcy Reform Act of 2001, sec. 1225(d)(1) (sec. 1225(e) states: “The amendments made by this section shall take effect on the date of enactment of this Act.”).

District of Columbia	1
Florida:	
Northern	1
Middle	8
Southern	5
Georgia:	
Northern	8
Middle	2 ³
Southern	2
Middle and Southern	1³
Hawaii	1
Idaho	2
Illinois:	
Northern	10
Central	3
Southern	1
Indiana:	
Northern	3
Southern	4
Iowa:	
Northern	2
Southern	2
Kansas	4
Kentucky:	
Eastern	2
Western	3
Louisiana:	
Eastern	2
Middle	1
Western	3
Maine	2
Maryland	4
Massachusetts	5
Michigan:	
Eastern	4

²Bankruptcy Reform Act of 2001, sec. 1225(d)(2)(A) (sec. 1225(e) states: “The amendments made by this section shall take effect on the date of enactment of this Act.”).

³Bankruptcy Reform Act of 2001, sec. 1225(d)(2)(B) (sec. 1225(e) states: “The amendments made by this section shall take effect on the date of enactment of this Act.”).

Western		3
Minnesota	4	
Mississippi:		
Northern	1	
Southern		2
Missouri:		
Eastern		3
Western		3
Montana	1	
Nebraska		2
Nevada		3
New Hampshire		1
New Jersey		8
New Mexico		2
New York:		
Northern		2
Southern		9
Eastern		6
Western		3
North Carolina:		
Eastern		2
Middle		2
Western		2
North Dakota		1
Ohio:		
Northern		8
Southern		7
Oklahoma:		
Northern		2
Eastern		1
Western		3
Oregon		5
Pennsylvania:		
Eastern		5
Middle		2
Western		4
Puerto Rico		2
Rhode Island		1
South Carolina		2
South Dakota		2
Tennessee:		

Eastern		3
Middle		3
Western	4	
Texas:		
Northern		6
Eastern		2
Southern		6
Western		4
Utah		3
Vermont	1	
Virginia:		
Eastern		5
Western		3
Washington:		
Eastern		2
Western		5
West Virginia:		
Northern		1
Southern		1
Wisconsin:		
Eastern		4
Western		2
Wyoming		1

(3) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of such court shall make such appointment.

(4) The judges of the district courts for the territories shall serve as the bankruptcy judges for such courts. The United States court of appeals for the circuit within which such a territorial district court is located may appoint bankruptcy judges under this chapter for such district if authorized to do so by the Congress of the United States under this section.

(b) (1) The Judicial Conference of the United States shall, from time to time, and after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts after such Director has consulted with the judicial council of the circuit involved, determine the official duty stations of bankruptcy judges and places of holding court.

(2) The Judicial Conference shall, from time to time, submit recommendations to the Congress regarding the number of bankruptcy judges needed and the districts in which such judges are needed.

(3) Not later than December 31, 1994, and not later than the end of each 2- year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the

elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.

(c) Each bankruptcy judge may hold court at such places within the judicial district, in addition to the official duty station of such judge, as the business of the court may require.

(d) With the approval of the Judicial Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

§ 157. Procedures

(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

(b) (1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

(2) Core proceedings include, but are not limited to--

(A) matters concerning the administration of the estate;

(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;

(C) counterclaims by the estate against persons filing claims against the estate;

(D) orders in respect to obtaining credit;

(E) orders to turn over property of the estate;

(F) proceedings to determine, avoid, or recover preferences;

(G) motions to terminate, annul, or modify the automatic stay;

(H) proceedings to determine, avoid, or recover fraudulent conveyances;

(I) determinations as to the dischargeability of particular debts;

(J) objections to discharges;

(K) determinations of the validity, extent, or priority of liens;

(L) confirmations of plans;

(M) orders approving the use or lease of property, including the use of cash

collateral;

(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate; ~~and~~⁴

(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims; ~~and~~⁵

(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.⁶

(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law.

(4) Non-core proceedings under section 157(b)(2)(B) of title 28, United States Code, shall not be subject to the mandatory abstention provisions of section 1334(c)(2).

(5) The district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

(c) (1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

⁴Bankruptcy Reform Act of 2001, sec. 802(c)(1)(A).

⁵Bankruptcy Reform Act of 2001, sec. 802(c)(1)(B).

⁶Bankruptcy Reform Act of 2001, sec. 802(c)(1)(C).

(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.

§ 158. Appeals

(a) The district courts of the United States shall have jurisdiction to hear appeals [FN1]

(1) from final judgments, orders, and decrees;

(2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and

(3) with leave of the court, from other interlocutory orders and decrees; and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

(b) (1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that--

(A) there are insufficient judicial resources available in the circuit; or

(B) establishment of such service would result in undue delay or increased cost to parties in cases under title 11.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding.

(2) (A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.

(4) If authorized by the Judicial Conference of the United States, the judicial councils of

2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized such service to hear and determine appeals originating in such district.

(c) (1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless--

(A) the appellant elects at the time of filing the appeal; or

(B) any other party elects, not later than 30 days after service of notice of the appeal; to have such appeal heard by the district court.

(2) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

~~(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.~~

(d) (1) In a case in which the appeal is heard by the district court, the judgment, decision, order, or decree of the bankruptcy judge shall be deemed a judgment, decision, order, or decree of the district court entered 31 days after such appeal is filed with the district court, unless not later than 30 days after such appeal is filed with the district court-

(A) the district court-

(i) files a decision on the appeal from the judgment, decision, order, or decree of the bankruptcy judge; or

(ii) enters an order extending such 30-day period for cause upon motion of a party or upon the court's own motion; or

(B) all parties to the appeal file written consent that the district court may retain such appeal until it enters a decision.

(2) For the purpose of this subsection, an appeal shall be considered filed with the district court on the date on which the notice of appeal is filed, except that in a case in which the appeal is heard by the district court because a party has made an election under subsection (c)(1)(B), the appeal shall be considered filed with the district court on the date on which such election is made.

(e) The courts of appeals shall have jurisdiction of appeals from-

(1) all final judgments, decisions, orders, and decrees of district courts entered

under subsection (a);

(2) all final judgments, decisions, orders, and decrees of bankruptcy appellate panels entered under subsection (b); and

(3) all judgments, decisions, orders, and decrees of district courts entered under subsection (d) to the extent that such judgments, decisions, orders, and decrees would be reviewable by a district court under subsection (a).

(f) In accordance with rules prescribed by the Supreme Court of the United States under sections 2072 through 2077, the court of appeals may, in its discretion, exercise jurisdiction over an appeal from an interlocutory judgment, decision, order, or decree under subsection (e)(3).⁷

§ 159. Bankruptcy statistics

(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

(b) The Director shall-

(1) compile the statistics referred to in subsection (a);

(2) make the statistics available to the public; and

(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

(c) The compilation required under subsection (b) shall-

(1) be itemized, by chapter, with respect to title 11;

(2) be presented in the aggregate and for each district; and

(3) include information concerning-

(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

⁷Bankruptcy Reform Act of 2001, sec. 1235(a)(1).

(D) the average period of time between the filing of the petition and the closing of the case;

(E) for the reporting period-

(i) the number of cases in which a reaffirmation was filed; and

(ii) (I) the total number of reaffirmations filed;

(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

(F) with respect to cases filed under chapter 13 of title 11, for the reporting period-

(i) (I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

(II) the number of final orders determining the value of property securing a claim issued;

(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such Rule.⁸

§ 586. Duties; supervision by Attorney General

(a) Each United States trustee, within the region for which such United States trustee is appointed, shall--

(1) establish, maintain, and supervise a panel of private trustees that are eligible and

⁸Bankruptcy Reform Act of 2001, sec. 601(a) (sec. 601(c) provides: "The amendments made by this section shall take effect 18 months after the date of enactment of this Act.")

available to serve as trustees in cases under chapter 7 of title 11;

(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

(3) supervise the administration of cases and trustees in cases under chapter 7, 11, 12, ~~or 13~~ **13, or 15**,⁹ of title 11 by, whenever the United States trustee considers it to be appropriate--

(A) (i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.

(B) monitoring plans and disclosure statements filed in cases under chapter 11 of title 11 and filing with the court, in connection with hearings under sections 1125 and 1128 of such title, comments with respect to such plans and disclosure statements;

(C) monitoring plans filed under chapters 12 and 13 of title 11 and filing with the court, in connection with hearings under sections 1224, 1229, 1324, and 1329 of such title, comments with respect to such plans;

(D) taking such action as the United States trustee deems to be appropriate to ensure that all reports, schedules, and fees required to be filed under title 11 and this title by the debtor are properly and timely filed;

(E) monitoring creditors' committees appointed under title 11;

(F) notifying the appropriate United States attorney of matters which relate to the occurrence of any action which may constitute a crime under the laws of the United States and, on the request of the United States attorney, assisting the United States attorney in carrying out prosecutions based on such action;

(G) monitoring the progress of cases under title 11 and taking such actions as the United States trustee deems to be appropriate to prevent undue delay in such progress; ~~and~~¹⁰

(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and¹¹

⁹Bankruptcy Reform Act of 2001, sec. 802(c)(3).

¹⁰Bankruptcy Reform Act of 2001, sec. 439(1)(A).

¹¹Bankruptcy Reform Act of 2001, sec. 439(1)(C).

- (H) ~~(I)~~¹² monitoring applications filed under section 327 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to the approval of such applications;
- (4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;
- (5) perform the duties prescribed for the United States trustee under title 11 and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe; ~~and~~¹³
- ~~(6) make such reports as the Attorney General directs;~~¹⁴
- (6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and**¹⁵
- (7) in each of such small business cases-**
- (A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall-**
- (i) begin to investigate the debtor's viability;**
- (ii) inquire about the debtor's business plan;**
- (iii) explain the debtor's obligations to file monthly operating reports and other required reports;**
- (iv) attempt to develop an agreed scheduling order; and**
- (v) inform the debtor of other obligations;**
- (B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and**
- (C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and**
- (8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.**¹⁶
- (b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region

¹²Bankruptcy Reform Act of 2001, sec. 439(1)(B).

¹³Bankruptcy Reform Act of 2001, sec. 439(2).

¹⁴Bankruptcy Reform Act of 2001, sec. 439(3).

¹⁵Bankruptcy Reform Act of 2001, sec. 603(b)(1) (sec. 603(e) states: "The amendments made by this section shall take effect 18 months after the date of enactment of this Act.")

¹⁶Bankruptcy Reform Act of 2001, sec. 439(4).

so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter. The United States trustee for such region shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

(d) **(1)**¹⁷ The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under paragraph (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11.

(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.¹⁸

(e) (1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11, shall fix--

- (A) a maximum annual compensation for such individual consisting of--
 - (i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and
 - (ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to individuals who are employed by the United States at the same rate of basic pay to perform similar

¹⁷Bankruptcy Reform Act of 2001, sec. 1233(a)(1).

¹⁸Bankruptcy Reform Act of 2001, sec. 1233(a)(2).

services during the same period of time; and

(B) a percentage fee not to exceed--

(i) in the case of a debtor who is not a family farmer, ten percent; or

(ii) in the case of a debtor who is a family farmer, the sum of--

(I) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed \$450,000; and

(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds \$450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund--

(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds--

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.

(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

(4) The Attorney General shall prescribe procedures to implement this subsection.¹⁹

§ 589a. United States Trustee System Fund

¹⁹Bankruptcy Reform Act of 2001, sec. 1233(b).

(a) There is hereby established in the Treasury of the United States a special fund to be known as the "United States Trustee System Fund" (hereinafter in this section referred to as the "Fund"). Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operations of United States trustees--

- (1) salaries and related employee benefits;
- (2) travel and transportation;
- (3) rental of space;
- (4) communication, utilities, and miscellaneous computer charges;
- (5) security investigations and audits;
- (6) supplies, books, and other materials for legal research;
- (7) furniture and equipment;
- (8) miscellaneous services, including those obtained by contract; and
- (9) printing.

(b) For the purpose of recovering the cost of services of the United States Trustee System, there shall be deposited as offsetting collections to the appropriation "United States Trustee System Fund", to remain available until expended, the following--

- ~~(1) 27.42 percent of the fees collected under section 1930(a)(1) of this title;~~
- (1) (A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and
(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;²⁰**
- (2) ~~one-half~~ **three-fourths**²¹ of the fees collected under section 1930(a)(3) of this title;
- (3) one-half of the fees collected under section 1930(a)(4) of this title;
- (4) ~~one-half~~ **100 percent**²² of the fees collected under section 1930(a)(5) of this title;
- (5) 100 percent of the fees collected under section 1930(a)(6) of this title;
- (6) three-fourths of the fees collected under the last sentence of section 1930(a) of this title;
- (7) the compensation of trustees received under section 330(d) of title 11 by the clerks of the bankruptcy courts;
- (8) excess fees collected under section 586(e)(2) of this title; and
- (9) interest earned on Fund investment.

(c) Amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

²⁰Bankruptcy Reform Act of 2001, sec. 325(b)(1).

²¹Bankruptcy Reform Act of 2001, sec. 325(b)(2).

²²Bankruptcy Reform Act of 2001, sec. 325(b)(3).

(d) The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed report on the amounts deposited in the Fund and a description of expenditures made under this section.

(e) There are authorized to be appropriated to the Fund for any fiscal year such sums as may be necessary to supplement amounts deposited under subsection (b) for the purposes specified in subsection (a).

§ 589b. Bankruptcy data

(a) RULES.-The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)-

(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11;
and

(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

(b) REPORTS.-Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

(c) REQUIRED INFORMATION.-The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between-

(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

(3) appropriate privacy concerns and safeguards.

(d) FINAL REPORTS.-Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title-

(1) information about the length of time the case was pending;

(2) assets abandoned;

(3) assets exempted;

(4) receipts and disbursements of the estate;

(5) expenses of administration, including for use under section 707(b), actual

costs of administering cases under chapter 13 of title 11;
(6) claims asserted;
(7) claims allowed; and
(8) distributions to claimants and claims discharged without payment,
in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

(e) **PERIODIC REPORTS.**-Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include-

- (1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;
- (2) length of time the case has been pending;
- (3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;
- (4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;
- (5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;
- (6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and
- (7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.²³

§ 960. Tax liability

(a)²⁴ Any officers and agents conducting any business under authority of a United States court shall be subject to all Federal, State and local taxes applicable to such business to the same extent as if it were conducted by an individual or corporation.

(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless-

- (1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a

²³Bankruptcy Reform Act of 2001, sec. 602(a).

²⁴Bankruptcy Reform Act of 2001, sec. 712(a)(1).

bankruptcy estate under section 554 of title 11; or

(2) payment of the tax is excused under a specific provision of title 11.

(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if-

(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.²⁵

§ 1334. Bankruptcy cases and proceedings

(a) Except as provided in subsection (b) of this section, the district court shall have original and exclusive jurisdiction of all cases under title 11.

(b) ~~Notwithstanding~~ **Except as provided in subsection (e)(2), and notwithstanding**²⁶ any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

(c) (1) ~~Nothing in~~ **Except with respect to a case under chapter 15 of title 11, nothing in**²⁷ this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction.

(d) Any decision to abstain or not to abstain ~~made under this subsection~~ **made under subsection (c)**²⁸ (other than a decision not to abstain in a proceeding described in subsection (c)(2)) is not reviewable by appeal or otherwise by the court of appeals under section ~~158(d)~~ **subsection (e) or**

²⁵Bankruptcy Reform Act of 2001, sec. 712(a)(2).

²⁶Bankruptcy Reform Act of 2001, sec. 324(a)(1).

²⁷Bankruptcy Reform Act of 2001, sec. 802(c)(2).

²⁸Bankruptcy Reform Act of 2001, sec. 1220(1).

(f) of section 158²⁹, 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title. ~~This subsection~~ **Subsection (c) and this subsection**³⁰ shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

~~(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate.~~

(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction-

(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.³¹

§ 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending.

(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than \$1,000 or a consumer debt of less than \$5,000, **or a nonconsumer debt against a noninsider of less than \$10,000,**³² only in the district court for the district in which the defendant resides.

(c) Except as provided in subsection (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of

²⁹Bankruptcy Reform Act of 2001, sec. 1235(b)(2).

³⁰Bankruptcy Reform Act of 2001, sec. 1220(2).

³¹Bankruptcy Reform Act of 2001, sec. 324(a)(2).

³²Bankruptcy Reform Act of 2001, sec. 410.

the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

(e) A proceeding arising under title 11 or arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

~~§ 1410. Venue of cases ancillary to foreign proceedings~~

~~(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.~~

~~(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against a property; or to require the turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.~~

~~(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.~~

§ 1410. Venue of cases ancillary to foreign proceedings

A case under chapter 15 of title 11 may be commenced in the district court for the district-

(1) in which the debtor has its principal place of business or principal assets in the United States;

(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.³³

§ 1452. Removal of claims related to bankruptcy cases

³³Bankruptcy Reform Act of 2001, sec. 802(c)(4).

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise by the court of appeals under ~~section 158(d)~~ **subsection (e) or (f) of section 158**³⁴, 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title.

§ 1930. Bankruptcy fees

(a) ~~Notwithstanding section 1915 of this title, the~~ **The**³⁵ parties commencing a case under title 11 shall pay to the clerk of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to section 156(b) of this title, the following filing fees:

~~(1) For a case commenced under chapter 7 or 13 of title 11, \$155.~~

(1) For a case commenced-

(A) under chapter 7 of title 11, \$160; or

(B) under chapter 13 of title 11, \$150.³⁶

(2) For a case commenced under chapter 9 of title 11, ~~\$300~~ **equal to the fee specified in paragraph (3) for filing a case under chapter 11 of title 11. The amount by which the fee payable under this paragraph exceeds \$300 shall be deposited in the fund established under section 1931 of this title**³⁷.

(3) For a case commenced under chapter 11 of title 11 that does not concern a railroad, as defined in section 101 of title 11, \$800.

(4) For a case commenced under chapter 11 of title 11 concerning a railroad, as so defined, \$1,000.

(5) For a case commenced under chapter 12 of title 11, \$200.

(6) In addition to the filing fee paid to the clerk, a quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until the case is converted or dismissed, whichever occurs first. The fee shall be \$250 for each quarter in which disbursements total less than

³⁴Bankruptcy Reform Act of 2001, sec. 1235(b)(3).

³⁵Bankruptcy Reform Act of 2001, sec. 418(1).

³⁶Bankruptcy Reform Act of 2001, sec. 325(a).

³⁷114 Stat 2410, 2411, sec. 103.

\$15,000; \$500 for each quarter in which disbursements total \$15,000 or more but less than \$75,000; \$750 for each quarter in which disbursements total \$75,000 or more but less than \$150,000; \$1,250 for each quarter in which disbursements total \$150,000 or more but less than \$225,000; \$1,500 for each quarter in which disbursements total \$225,000 or more but less than \$300,000; \$3,750 for each quarter in which disbursements total \$300,000 or more but less than \$1,000,000; \$5,000 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000; \$7,500 for each quarter in which disbursements total \$2,000,000 or more but less than \$3,000,000; \$8,000 for each quarter in which disbursements total \$3,000,000 or more but less than \$5,000,000; \$10,000 for each quarter in which disbursements total \$5,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.

An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments. For converting, on request of the debtor, a case under chapter 7, or 13 of title 11, to a case under chapter 11 of title 11, the debtor shall pay to the clerk of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to section 156(b) of this title, a fee of ~~\$400~~ **the amount equal to the difference between the fee specified in paragraph (3) and the fee specified in paragraph (1)**³⁸.

(7) In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.³⁹

(b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914(b) of this title.

(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari \$5 shall be paid to the clerk of the court, by the appellant or petitioner.

(d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.

(e) The clerk of the court may collect only the fees prescribed under this section.

(f) (1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the

³⁸114 Stat 2410, 2411, sec. 104.

³⁹114 Stat 2410, 2412, sec. 105.

size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term "filing fee" means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.⁴⁰

§ 2075. Bankruptcy rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.⁴¹

⁴⁰Bankruptcy Reform Act of 2001, sec. 418(2).

⁴¹Bankruptcy Reform Act of 2001, sec. 1234.