

-CITE-

28 USC Sec. 586

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE  
PART II - DEPARTMENT OF JUSTICE  
CHAPTER 39 - UNITED STATES TRUSTEES

-HEAD-

Sec. 586. Duties; supervision by Attorney General

-STATUTE-

(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 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 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.(!1)

(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

(H) 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

(6) make such reports as the Attorney General directs.

(b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region 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) 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.

(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 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.

-SOURCE-

(Added Pub. L. 95-598, title II, Sec. 224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, Sec. 113, Oct. 27, 1986, 100 Stat. 3091; Pub. L. 101-509, title V, Sec. 529 [title I, Sec. 110(a)], Nov. 5, 1990, 104 Stat. 1427, 1452; Pub. L. 103-394,

title II, Sec. 224(a), title V, Sec. 502, Oct. 22, 1994, 108 Stat. 4130, 4147.)

-REFTEXT-

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (e)(1)(A)(i), is set out in section 5316 of Title 5, Government Organization and Employees.

-COD-

CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

-MISC1-

AMENDMENTS

1994 - Subsec. (a)(3). Pub. L. 103-394 inserted "12," after "11," in introductory provisions and amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "monitoring applications for compensation and reimbursement filed under section 330 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to any of such applications;"

1990 - Subsec. (e)(1)(A). Pub. L. 101-509 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and".

1986 - Subsec. (a). Pub. L. 99-554, Sec. 113(a)(1), substituted "the region for which such United States trustee is appointed" for "his district" in introductory text.

Subsec. (a)(3). Pub. L. 99-554, Sec. 113(a)(2), substituted "title 11 by, whenever the United States trustee considers it to be

appropriate - " for "title 11;" and added subpars. (A) to (H).

Subsec. (a)(5). Pub. L. 99-554, Sec. 113(a)(3), inserted "and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe" after "title 11".

Subsec. (b). Pub. L. 99-554, Sec. 113(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district 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 trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee."

Subsec. (d). Pub. L. 99-554, Sec. 113(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 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 13 of title 11."

Subsec. (e). Pub. L. 99-554, Sec. 113(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

"(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 13 of title 11, shall fix -

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, 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 under plans in the cases under chapter 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 pay to the Treasury -

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 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 actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases."

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, Sec. 305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

#### 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 this title.

#### APPLICATION TO ALL STANDING TRUSTEES

Section 529 [title I, Sec. 110(b)] of Pub. L. 101-509 provided that: "The amendment made by subsection (a) [amending this section] shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-54 [Pub. L. 99-554]; 100 Stat. 3121) [set out in an Effective Date of 1986 Amendment note under section 581 of this title] apply."

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 sections 326, 589a, 701, 703, 1202, 1302, 1326.

-FOOTNOTE-

(!1) So in original. The period probably should be a semicolon.

-End-