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Bankruptcy

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CURRENT LEGISLATION

BANKRUPTCY

The 86th Congress, 2nd Session, was productive of certain changes and additions to the Bankruptcy Act.

Since 1898 a trustee in bankruptcy had received a flat closing fee of \$5.¹ An amendment has been enacted² increasing such fee to \$10 to obviate somewhat the difficulties encountered in the past in obtaining qualified trustees especially in no-asset cases.

An amendment to § 57a³ has eliminated the requirement that a creditor's proof of claim be under oath.⁴ To conform this change to § 152 of the Criminal Code⁵ under which it was a crime to present a false claim under oath, the words "under oath" in § 152 have been deleted, it now being criminal to "knowingly and fraudulently present a false claim" whether under oath or not.⁶

An amendment to § 14c(3)⁷ has restricted, as a ground for denial of a discharge of all the bankrupt's provable debts, the obtaining of money or credit through false financial statements, to those who issue such while engaged in business as a sole proprietor, partnership, or an executive of a corporation, and eliminates it as a ground for the denial of a discharge to individual non-commercial bankrupts.⁸

A corollary amendment to § 17a(2)⁹ makes it clear that, although the obtaining of money or property on credit through the issuance of a false financial statement is no longer a ground for the denial of a discharge of a non-business bankrupt, the particular obligation incurred as a result of such a statement will be a non-dischargeable claim.¹⁰

Finally, § 39c¹¹ has been amended to clarify the provision regarding the time within which a petition for a review of a referee's order must be filed. The section provided that such petition must be filed within ten days or such extended time as the court might, for cause shown, allow. Under the interpretation made by the courts no action was necessarily required within the initial ten days.¹² By virtue of the amendment,¹³ for an extension of the ten-day period, a petition must be filed within such time, the court being powerless to accept the petition for review otherwise after the expiration of the ten-day period.

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¹ Bankruptcy Act § 48(c), 30 Stat. 550 (1898), as amended, 11 U.S.C. § 76c (1958).

² 74 Stat. 198 (1960), Pub. L. No. 504, 86th Cong., 2d Sess. (June 11, 1960).

³ 11 U.S.C. § 93(a) (1958).

⁴ 74 Stat. 217 (1960), Pub. L. No. 519, 86th Cong., 2d Sess. (June 12, 1960).

⁵ 18 U.S.C. § 152 (1958).

⁶ 74 Stat. 217 (1960), Pub. L. No. 519, 86th Cong., 2d Sess. § 2 (June 12, 1960).

⁷ 11 U.S.C. § 32(c)(3) (1958).

⁸ 74 Stat. 408 (1960), Pub. L. No. 621, 86th Cong., 2d Sess. (July 12, 1960).

⁹ 11 U.S.C. § 35(a)(2) (1958).

¹⁰ 74 Stat. 408 (1960), Pub. L. No. 621, 86th Cong., 2d Sess. § 2 (July 12, 1960).

¹¹ 11 U.S.C. § 67c (1958).

¹² *Pfister v. Northern Illinois Finance Corp.*, 317 U.S. 144 (1942).

¹³ 74 Stat. 528 (1960), Pub. L. No. 662, 86th Cong., 2d Sess. (July 14, 1960).