

§ 586. Duties; supervision by Attorney General, 28 USCA § 586

United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part II. Department of Justice (Refs & Annos)
Chapter 39. United States Trustees (Refs & Annos)

28 U.S.C.A. § 586

§ 586. Duties; supervision by Attorney General

Effective: December 22, 2010

[Currentness](#)

- (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, 13, or 15 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;

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- (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;

- (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; and

- (I) 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;

- (6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;

- (7) in each of such small business cases--
 - (A) conduct an initial debtor interview as soon as practicable after the date of the 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

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(v) inform the debtor of other obligations;

(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, 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 determine 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](#), apply promptly after making that finding to the court for relief.

(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)(1) 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 district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States 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.

(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--

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(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

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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 district court of the United States for 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.

(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under [section 156\(b\)](#) of this title) shall give notice of the misstatement to the creditors in the case.

(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall--

(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to [section 3057 of title 18](#); and

(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to [section 727\(d\) of title 11](#).

CREDIT(S)

(Added [Pub.L. 95-598, Title II, § 224\(a\)](#), Nov. 6, 1978, 92 Stat. 2663; amended [Pub.L. 99-554, Title I, § 113](#), Oct. 27, 1986, 100 Stat. 3091; [Pub.L. 101-509, Title V, § 529](#) [Title I, § 110(a)], Nov. 5, 1990, 104 Stat. 1427, 1452; [Pub.L. 103-394, Title II, § 224\(a\), Title V, § 502](#), Oct. 22, 1994, 108 Stat. 4130, 4147; [Pub.L. 109-8, Title IV, § 439, Title VI, § 603\(b\), Title VIII, § 802\(c\) \(3\), Title XII, § 1231](#), Apr. 20, 2005, 119 Stat. 113, 122, 146, 201; [Pub.L. 111-327, § 2\(c\)\(3\)](#), Dec. 22, 2010, 124 Stat. 3563.)

[Notes of Decisions \(86\)](#)

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Current through P.L. 113-296 (excluding P.L. 113-235, 113-287, and 113-291) approved 12-19-2014