

PREFACE

Two study groups comprised of Lorraine Crozier, Roxanne Daneri, Neil Enmark, Don Fitzgerald, Dale Ginter, Mark Gorton, Jan Johnson, Stephen Koonce, Marc Levinson, Michael McManus, Dan Nelson, Tom Phinney, Estela Pino, and Tom Rohall met from June to December of 2005 to review the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“the 2005 Act”). They have produced a section-by-section analysis of the amendments made to the Bankruptcy Code by the 2005 Act.

Please note that this is a work in progress. As the review of each chapter has been completed, the court has posted the summary of the chapter on its Internet site, www.caeb.uscourts.gov, where anyone interested in doing so may review or download the materials. These materials will be updated. Previously, the materials were revised to include discussions of pertinent Interim Rules and new Official Forms. As courts interpret the 2005 Act, the materials will be updated to include discussions and citations of those cases.

The first page of each chapter, as well as the footer on each page, indicates the date a chapter analysis was last revised. We welcome your comments, corrections, and suggestions regarding these materials. Please email them to bkact_comment@caeb.uscourts.gov and they may be incorporated into the materials.

With a few exceptions, the summary and analysis of each section follows a template which follows this preface. If a topic on the template is omitted, in the opinion of the study group, there is nothing germane or significant in need of discussion. For example, when the amendments made by the 2005 Act to a particular section do not have any impact on widely cited case authority, the section, “Case Authority Impacted by the Amendment,” is omitted.

The first topic on the template is the “Effective Date” of the amendment. Generally speaking, most of the amendments were effective in cases filed on or after October 17, 2005. If all of the amendments to a particular section were effective on October 17, there is no discussion of the effective date. If an amendment was or will be effective at any other time, the effective date of that amendment is identified and discussed.

So far, there are three variances from the template.

Section 101 defines terms used elsewhere in the Bankruptcy Code. Rather than discussing the new and amended defined terms in the abstract, they will be discussed in the context of the sections making use of them. The summary of section 101 is an index of sorts. It groups the new and substantially amended defined terms by general subject matter and includes after each term a list of all Bankruptcy Code sections using that term.

Also, the discussions of new sections 526, 527, and 528 are grouped into one summary that otherwise follows the template. These sections are all related and concern the regulation of “debt relief agencies.”

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Similarly, the amendments to sections dealing with specific tax provisions, sections 346, 728, 1146 and 1231, are discussed in one summary. However, because these sections fall in more than one chapter, the same summary appears in chapters 3, 7, 11, and 12.