

PUBLICATION UPDATE

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Collier Pamphlet Edition

Publication 221 Release 2005December 2004

HIGHLIGHTS**Amendments to Federal Rules of Bankruptcy Procedure**

- Federal Rules of Bankruptcy Procedure 1011, 2002 and 9014 were amended effective December 1, 2004.

Amendments to Official Bankruptcy Forms

- Technical amendments were made to Official Forms 16D and 17, also effective December 1, 2004.

Commentary on Recent Case Law Added

- New discussion of recent case law has been added to the 2005 Edition, including commentary on six Supreme Court cases decided in 2004.

Amended Bankruptcy Rules. Federal Rules of Bankruptcy Procedure 1004, 2002 and 9014 were amended effective December 1, 2004. While the amendments to Rules 1004 and 2002 were minor technical amendments, the amendment to Rule 9014 (“Contested Matters”) clarified that “the mandatory disclosure requirements of Fed. R.

Civ. P. 26, as incorporated by Rule 7026, do not apply in contested matters” unless otherwise directed by the court.

Amended Bankruptcy Forms. Technical amendments were made to Official Forms 16D (which was retitled “Caption for Use in Adversary Proceeding”) and 17 (“Notice of Appeal Under 28 U.S.C. § 158(a) or (b) From a Judgment, Order, or Decree of a Bankruptcy Judge”). The revised versions of these forms became effective on December 1, 2004.

Updated Dollar Amounts in Bankruptcy Code and Forms. As directed in section 104 of the Code, dollar amounts in certain Code sections are updated every three years to reflect changes in the Consumer Price Index. The latest dollar amount changes (to sections 109(e), 303(b), 507(a), 522(d) and 523(a)(2)(C)) are effective for cases commenced on or after April 1, 2004. The dollar amounts in Official Forms 6E and 10 were also updated with the same effective date.

Additional Discharge Provisions Included. In the 2005 Edition, additional bankruptcy-related provisions have been added to the “Additional Statutory Provisions” sections

of the Code volume and the Portable Pamphlet. The selected provisions, from various titles of the United States Code, relate to certain debts to the U.S. government that are not dischargeable in bankruptcy under chapter 11. The newly included discharge provisions appear in U.S.C. titles 10 (“Armed Forces”), 14 (“Coast Guard”), 20 (“Education”), 25 (“Indians”), 37 (“Pay and Allowances of the Uniformed Services”), 38 (“Veterans’ Benefits”) and 47 (“Telegraphs, Telephones, and Radiotelegraphs”).

The National Defense Authorization Act for Fiscal Year 2005 (Pub. L. No. 108-375, Oct. 28, 2004) enacted certain new discharge provisions that have also been included in the 2005 Edition. In addition to adding these new provisions at 10 U.S.C. § 511 and 37 U.S.C. § 308j, this legislation also amended several of the previously existing title 37 sections that contain the discharge provisions described above, and it completely revised 37 U.S.C. § 316, adding a discharge provision to that section.

Former Soldiers’ and Sailors’ Civil Relief Act Retitled and Revised. The former Soldiers’ and Sailors’ Civil Relief Act has been revised and retitled as the “Servicemembers Civil Relief Act.” This Act provides special relief in civil proceedings for members of the United States Armed Forces, and its provisions apply in bankruptcy cases. Title II of the Act, which continues to provide protection of servicemembers from default judgments, is

included in the “Additional Statutory Provisions” sections of the *Pamphlet Edition*.

New Commentary on Recent Case Law Added. Discussion of numerous recent bankruptcy decisions has been added to the “Selected Case Comment” notes that follow individual Code sections and rules. Among the new cases are the following 2004 decisions by the U.S. Supreme Court, each of which has been referenced under the Code section or Federal Rule of Bankruptcy Procedure indicated in parentheses: *Tennessee Student Assistance Corp. v. Hood*, 158 L. Ed. 2d 764 (11 U.S.C. §§ 106 and 523); *Lamie v. United States Trustee*, 157 L. Ed. 2d 1024 (11 U.S.C. § 330); *United States v. Galletti*, 158 L. Ed. 2d 279 (11 U.S.C. § 502(b)(1)); *Raymond B. Yates, M.D., P.C. Profit Sharing Plan v. Hendon*, 158 L. Ed. 2d 40 (11 U.S.C. § 541(c)); *Till v. SCS Credit Corp.*, 158 L. Ed. 2d 787 (11 U.S.C. § 1325(a)(5)); and *Kontrick v. Ryan*, 157 L. Ed. 2d 867 (Rules 4004(c) and 4007(c)).

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