CASES FILED ...

1899 22,446 | 1932 70,049 | 1946 10,196 | 1959 100,672 | 1967 208,329 | 1987 561,278 | 2000 1,262,102 | 2007 801,269 | 2010 1,596,355 | 2017 790,830

1787
The U.S. Constitution (Article I, sec. 8) authorizes Congress to establish uniform bankruptcy laws throughout the nation. Laws passed in the succeeding century, however, will be short-lived.

Bankruptcy Act of 1800 (ch. 19, 2 Stat. 19) passes by one vote. The Act applies solely to merchant debtors with cases initiated by creditors and allows discharges only if two-thirds of creditors (in number and dollar amount) agree. It authorizes district court judges to appoint nonjudicial commissioners to oversee and help administer bankruptcy proceedings. Early in President Jefferson's term, the Act is amended so that commissioners are instead appointed by the President. The Act mirrors existing English law and contains a five-year sunset provision.

Bankruptcy Act of 1841 (ch. 9, 5 Stat. 440) grants district courts "jurisdiction in all matters and proceedings in bankruptcy," including developing rules for proceedings and appointing bankruptcy commissioners and assignees. In addition, the Act
- allows voluntary cases
- extends relief to all debtors
- allows discharge of debtors who turn over assets
- provides for recovery of fraudulent transfers and preferences
- prohibits debtors from using state law exemptions

Bankruptcy Act of 1867 (ch. 176, 14 Stat. 517) marks the first time Congress refers to district courts as "constituted courts of bankruptcy" with original jurisdiction in all bankruptcy matters. Key provisions of the Act include
- allowing district judges to appoint nonjudicial assistants, known as "registers in bankruptcy," nominated by the Chief Justice
- including corporations under bankruptcy law for the first time
- allowing debtors to choose between state and federal exemptions

Bankruptcy Act of 1898 (ch. 541, 30 Stat. 544) is the first long-term bankruptcy legislation, in effect for the next 80 years. The U.S. district courts are made courts of bankruptcy and given original jurisdiction over all bankruptcy matters, while the Supreme Court and the U.S. courts of appeals are given appellate jurisdiction of controversies arising in bankruptcy cases. Referees are appointed to two-year terms by the district judge and can be removed only for incompetency, misconduct, or neglect of duty. The 1898 Act also establishes the office of trustee (previously assignee) in bankruptcy. In general, the Act aims to reduce administrative fees and expenses, allow all bankrupts to obtain a discharge of their debts at a nominal expense with relatively narrow exceptions, and enforce the acceptance of compositions. Corporations are ineligible for voluntary relief, but some can be involuntary debtors. Amendments enacted in 1910 make corporations eligible for voluntary bankruptcy. Within five years, more than 14,000 voluntary cases and 2,500 involuntary cases will be filed under the 1898 Act each year.

Chandler Act of 1938 (Pub. L. No 75-696, 52 Stat. 840), in response to the Great Depression, overhauls the 1898 Act and reworks previous reorganization amendments into "Chapters": Chapter X for corporate reorganizations, Chapter XI for arrangements, Chapter XII for real property arrangements, and Chapter XIII for wage earner plans. The Act also converts bankruptcy referees into judicial officers, who will later become U.S. bankruptcy judges.

Bankruptcy Reform Act of 1978 (Pub. L. No. 95-598, 92 Stat. 2549), superseding the 1898 Act, establishes bankruptcy courts in each district. It allows for the President to appoint and the Senate to confirm bankruptcy judges for 14-year terms beginning in 1984 after a transition period (because of ensuing judicial and legislative action, this provision and others in the Act never took effect). While bankruptcy courts may now hear all matters arising in or related to bankruptcy cases, judges remain non-Article III adjuncts of the district courts. Also, a new Chapter 11 (replacing X, XI, and XII) and Chapter 13, which offers a "super" discharge, make filing and reorganizing easier for businesses and individuals. (Western Arabic rather than Roman numerals are adopted for chapter titles.) The following year a pilot U.S. trustee program is established.

Bankruptcy Amendments and Federal Judgeship Act of 1984 (Pub. L. No. 98-353, 98 Stat. 333) replaces the 1978 provisions dealing with jurisdiction, venue, jury trials, and appeals. Bankruptcy courts become units of the district courts, with jurisdiction by district court reference. The circuit courts are authorized to appoint bankruptcy judges to 14-year terms. Bankruptcy courts are authorized to enter final orders on core matters, with noncore matters subject to de novo review by the district court, absent consent of the parties.

Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Pub. L. No. 99-554, 100 Stat. 3088) establishes Chapter 12 temporarily for family farmers and makes permanent the U.S. Trustee program except in North Carolina and Alabama, where bankruptcy administrator programs are established. The trustee program moves the appointing and overseeing of case and standing trustees from the judicial to the executive branch in participating districts.

Bankruptcy Reform Act of 1994 (Pub. L. No. 103-394, 108 Stat. 4106) creates the second National Bankruptcy Commission to investigate changes in bankruptcy law. The Act expands bankruptcy courts' ability to hold jury trials in some proceedings and encourages circuit councils to establish bankruptcy appellate panels.

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. No. 109-8, 119 Stat. 23), substantially amending the 1978 Act, establishes a means test based on state median income for individual debtors, makes a briefing on credit counseling a condition for relief, and requires financial management training for Chapter 7 and 13 debtors to obtain a discharge. In addition, the Act
- appears to require dismissal if required documents are not filed (courts have not all interpreted this in the same way)
- eliminates the Chapter 13 "super discharge"
- eliminates "strip down" on most automobile loans in Chapter 13
- allows waiver of the bankruptcy filing fee for Chapter 7 individual debtors meeting certain criteria
- allows direct appeals to the court of appeals in certain circumstances

The Act also makes Chapter 12 permanent (and includes "family fishermen" with farmers), creates the role of consumer privacy ombudsman, and incorporates a model law on international insolvency cases.

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111-203, 124 Stat. 1376) aims to promote the nation's financial stability by improving accountability and transparency in the financial system, ending bailouts, and protecting consumers from abuses by financial services. The Federal Reserve is directed to stringently evaluate banks with assets over $50 billion, while banks with over $10 billion in assets must undergo annual stress tests. The Act establishes an orderly liquidation process for covered financial companies subject to FDIC regulation under the Act and establishes the Consumer Financial Protection Bureau to
- make rules and enforce laws
- restrict unfair, deceptive, and abusive practices
- promote financial education
- monitor financial markets for new risks to consumers

Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Pub. L. No. 115-174, 132 Stat. 1296). With bipartisan support, Congress rolls back certain provisions of the Dodd-Frank Act, easing restrictions on all but the largest banks by raising the threshold under which banks are subject to tight oversight and regulation to $250 billion from $50 billion. Banks below the new threshold no longer have to undergo annual Federal Reserve stress tests or submit for approval so-called living wills outlining how, if the bank failed, assets would be liquidated without causing a widespread financial meltdown. The Consumer Financial Protection Bureau stays in place.

Small Business Reorganization Act of 2019 (Pub. L. No. 116-54, 133 Stat. 1079) establishes a subchapter within Chapter 11 of the Bankruptcy Code under which small business debtors can reorganize using simplified and expedited procedures.

1800 | 1841 | 1867 | 1898 | 1938 | 1978 | 1984 | 1986 | 1994 | 2005 | 2010 | 2018 | 2019

1803
Citing excessive costs and corruption, Congress repeals the Act of 1800. For the next three decades, the states will fill the legal void.

1819
In *Sturges v. Crowninshield*, 17 U.S. 122, the Supreme Court holds that if Congress is not exercising its bankruptcy power, then the states are not prohibited from passing bankruptcy laws, as long as they do not unconstitutionally impair contracts.

1827
The Supreme Court expands upon *Sturges*, holding in *Ogden v. Saunders*, 25 U.S. 213, that a state's bankruptcy laws do not unconstitutionally impair contracts entered into subsequent to those laws, but a discharge entered under such laws does not apply to contracts made in other states.

1839
Federal law (ch. 35, 5 Stat. 321) abolishes imprisonment for debt.

1843
High administrative costs, lack of state law exemptions, and creditor frustration lead to the 1841 Act's repeal.

1874
Congress amends the 1867 Act (ch. 390, 18 Stat. 178), adding a composition provision so that debtors can create a plan for distributing assets among creditors while retaining property over time, foreshadowing the reorganization provisions of modern bankruptcy law.

1878
Congress repeals the Act of 1867 in its entirety (ch. 160, 20 Stat. 99) in response to abuses and excessive fees. States will continue to address insolvency through legislation and receiverships in the absence of comprehensive national legislation.

1933–1934
Congress amends the Act of 1898 to allow railroads and corporations to file plans of reorganization and to allow farmers and individual wage earners to seek arrangements permitting payment of all or part of their debt over a longer period compared to compositions. In the 1930s, Congress convenes the National Bankruptcy Conference to study bankruptcy reform and, in 1934, enacts its first municipal bankruptcy provisions, adding Chapter IX to the 1898 Bankruptcy Act (Pub. L. No 251, 48 Stat. 798). In *Ashton v. Cameron County Water Improvement District No. 1*, 298 U.S. 513 (1936), the Supreme Court holds that this legislation violates core federalism principles by impeding state sovereignty and diminishing protections of the Contract Clause.

1937–1938
Congress passes a revised Municipal Bankruptcy Act (Pub. L. No. 302, 50 Stat. 653). Upheld by the Supreme Court in *United States v. Bekins*, 304 U.S. 27 (1938), the legislation will come to be known as Chapter 9 bankruptcy.

1946
The Referees' Salary Bill (Pub. L. No. 464, 60 Stat. 323) changes the referees' compensation from a fee to a salary basis. It also extends the referee term from two to six years and limits district judges' ability to remove full-time referees to a for-cause basis.

1964
Congress authorizes promulgation of the Supreme Court's Bankruptcy Rules.

1970
Amendments to the 1898 Act give referees jurisdiction to determine the effect of bankruptcy discharge. In addition, Congress creates the Commission on the Bankruptcy Laws of the United States to recommend changes to the laws reflecting current social and economic conditions.

1973
In *United States v. Kras*, 409 U.S. 434, the Supreme Court rules the due-process clause does not require bankruptcy courts to waive the filing fee for filers who cannot afford it. Also, per the Court's Rules of Bankruptcy Procedure, referees henceforth are known as bankruptcy judges and are conferred finality on findings. The Commission on Bankruptcy Laws submits its report, including draft legislation.

1983
The Supreme Court adopts the Bankruptcy Rules and Forms to govern bankruptcy proceedings under the 1978 Act.

1982
In *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, the Supreme Court declares the broad delegation of jurisdiction to bankruptcy courts unconstitutional. The Court stays its decision until October 4, 1982, to give Congress time to respond. When Congress fails to meet an extended deadline, the Judicial Conference and Administrative Office propose an Emergency Rule allowing the bankruptcy system to continue operation. Though adopted, the fix causes many problems, including delay of judges' pay.

1997
The National Bankruptcy Review Commission recommends direct appeals from the bankruptcy courts to the courts of appeals and changing bankruptcy courts to Article III courts. Pursuant to the Bankruptcy Reform Act, the commission dissolves 30 days after completing its report. Congress disregards most of its recommendations.

1998
Congress passes the Religious Liberty and Charitable Donation Protection Act of 1998 (Pub. L. No. 105-183, 112 Stat. 517), amending several sections of the 1978 Act to limit the trustee's power to avoid debtor transfers to charities and churches of up to 15% of gross annual income. For Chapter 13 cases, a 15% income threshold is used to determine reasonableness of claimed charitable contributions.

2006
In *Central Virginia Community College v. Katz*, 546 U.S. 356, the Supreme Court rules that the Article I Bankruptcy Clause abrogates state sovereign immunity in private suits.

2008
Facing the disastrous bankruptcy of Lehman Brothers Holdings Inc. and American International Group's (AIG's) imminent collapse, Congress passes the Emergency Economic Stabilization Act of 2008 (Pub. L. No. 110-343, 122 Stat. 3765), creating the Troubled Assets Relief Program to pump money into the financial and automotive industries to stabilize them during a worldwide credit crisis.

2009
Congress passes the Credit CARD Act (Pub. L. No. 111-24, 123 Stat. 1734) prohibiting unfair and abusive practices and mandating rate and fee transparency.

2011
In *Stern v. Marshall*, 564 U.S. 462, the Supreme Court rules that bankruptcy judges lack the constitutional authority to enter final judgment based entirely on a state law counterclaim by a debtor against a claimant, a power reserved for Article III judges.

2014
In *Executive Benefits Insurance Agency v. Arkison*, 573 U.S. 25, the Supreme Court holds that when a bankruptcy court cannot constitutionally adjudicate a statutorily designated "core" claim, the judge may issue proposed findings and conclusions to be reviewed de novo by the district court. In *Law v. Siegel*, 571 U.S. 415, the Court rules that 11 U.S.C. § 522 precludes a bankruptcy court from using § 105(a) authority to order a debtor's exempt assets be used to pay administrative expenses, even those incurred through misconduct.

2015
In *Wellness International Network, Ltd. v. Sharif*, 135 S. Ct. 1932, the Supreme Court holds that bankruptcy litigants may waive the right to Article III adjudication by "knowing and voluntary" consent that need not be express but may be implied. Also in 2015, new forms for filing bankruptcy take effect, the culmination of a seven-year Advisory Committee for Bankruptcy Rules project to make forms more user friendly.

2016
The Supreme Court holds in *Puerto Rico v. Franklin California Tax-Free Trust*, 136 U.S. 1938, that Puerto Rico's municipalities and utilities are excluded from filing for Chapter 9 bankruptcy and are also barred by 11 U.S.C. § 903(1) from enacting municipal bankruptcy laws. The ruling leads to the Puerto Rico Oversight, Management, and Economic Stability Act—PROMESO (Pub. L. No. 114-187, 130 Stat. 549)—which includes processes for debt restructuring amid the Puerto Rican government debt crisis.

2017
In *Czyzewski v. Jevic Holding Corporation*, 137 S. Ct. 973, the Supreme Court holds that a distribution scheme ordered in connection with the dismissal of a Chapter 11 case cannot deviate from the Bankruptcy Code's priority scheme without consent of the affected parties.

RED INK ...

1777

Considered criminals, bankrupt individuals in colonial America were commonly imprisoned. The Articles of Confederation had no provisions for bankruptcy law.

1798

Impoverished by speculation, Revolutionary War financier Robert Morris is sent to debtor's prison. (Congress enacts the first bankruptcy law in part to get him out.)

1801

Thomas Jefferson (1743–1826) begins his first term as President.

1819

When a Kentucky business venture fails, John James Audubon is sent to debtor's prison. On release, he will embark on his celebrated bird painting series.

1845

Edgar Allan Poe publishes "The Raven," sealing his fame. Financial woes will dog the author till his death four years later.

1850

Introducing "Swedish Nightingale" Jenny Lind to U.S. audiences, promoter P.T. Barnum soon builds a vast fortune. He will file for bankruptcy in 1855.

1860

Abraham Lincoln (1809–1865) is elected President.

1881

Ulysses S. Grant (1822–1885), retired general and former President, joins an investment banking partnership. Three years later a swindle will ruin him.

1884

Samuel Clemens, aka Mark Twain, publishes "Huckleberry Finn" to wide acclaim. Ten years later, a publishing company formed by the author will fail.

1902


The highly successful (but quite different) stage version of L. Frank Baum's "The Wonderful Wizard of Oz" opens in Chicago.

1908

Ford Motor Co. rolls out the Model T, putting ordinary Americans in the driver's seat. (Founder Henry Ford's first automobile company failed.)

1917

Eddie Cantor stars in Florenz Ziegfeld's famous Follies. By 1930, bad investments and free spending will leave The Great Ziegfeld bankrupt.

1920

Ethel Clayton stars in Paramount's "The 13th Commandment." Meanwhile Walt Disney's Laugh-O-Gram Studio files for bankruptcy (as will Paramount in 1932).

1938

In a rematch, Joe Louis, aka the "Brown Bomber," defeats Max Schmeling in two minutes, four seconds.

1945

Harry S. Truman (1884–1972) assumes the Presidency when Roosevelt dies 82 days into his fourth term.

1950

Lee De Forest, inventor of the Audion vacuum tube, publishes "Father of the Radio," his life story.

1953

Leontyne Price dazzles crowds in "Porgy and Bess." Oscar nominee Dorothy Dandridge will play Bess in the 1959 film version.

1960

Partly due to the failure of its unreliable Predicta line, radio and TV maker Philco is forced to file for bankruptcy.

1967

With public interest in trains dying, toy maker Lionel Corporation files for bankruptcy. A reconfigured Lionel will file again in 1982 and 1991.

1972

President Richard M. Nixon (1913–1994) wins reelection, beating George McGovern in a landslide.

1979

To avoid bankruptcy, Chrysler Corp. petitions Congress for $1 billion in loan guarantees.

1989

Unable to compete following industry deregulation, Eastern Air Lines files for bankruptcy protection. Its last flight will be in 1991.

1993


Skating champion Dorothy Hamill buys the Ice Capades at a bankruptcy liquidation sale.

1999

In existence since 1851, The Singer Company files for Chapter 11 bankruptcy protection, partly as a result of global shifts in garment manufacturing.

2001

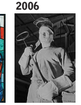
After revelations of large-scale accounting fraud, Enron files for the largest Chapter 11 bankruptcy in history (since surpassed by Washington Mutual and Lehman Brothers).

2002

As ever more customers flee to big-box discounters, Kmart Corp. files for bankruptcy protection. "Big K" will emerge as Kmart Holdings Corp. the following year.

2004

In the wake of a Boston Globe exposé on clergy sexual abuse, the Archdiocese of Portland, Maine, becomes the first Catholic diocese to file Chapter 11.

2006

Owens-Corning Corp. emerges from Chapter 11 when its reorganization plan becomes effective on October 31.

2009

In business more than 100 years, General Motors Corp. files for Chapter 11 reorganization with government funds to avert liquidation.

2010

Slow to keep up with new mail and internet delivery trends, video rental pioneer Blockbuster Inc. files for bankruptcy.

2011


The Los Angeles Dodgers file for Chapter 11 protection.

2013

The City of Detroit files the largest municipal bankruptcy in U.S. history.

Bankruptcy Jurisdiction of the U.S. Courts

For much of their history, federal courts have exercised jurisdiction over cases arising under federal bankruptcy laws. This jurisdiction is derived not from Article III of the Constitution but from Congress's authority under Article I to establish "uniform laws on the subject of bankruptcies throughout the United States." Under federal bankruptcy laws, the district courts have been responsible for gathering the assets of an insolvent debtor and distributing them to creditors in an equitable manner. Legislation and court decisions defining federal bankruptcy jurisdiction have often reflected an effort to reconcile the authority of state and federal courts.

Beginnings

Congress passed the nation's first bankruptcy law in 1800 after a decade of financial crises and commercial failures. The Bankruptcy Act of 1800 was modeled on English practice, in which bankruptcy proceedings were established only for merchants, bankers, and brokers and only on the petition of a creditor. The law proved unpopular, and Congress repealed it in 1803.

Passed in response to the Panic of 1837, the Bankruptcy Act of 1841 for the first time allowed both merchants and nonmerchants to voluntarily commence bankruptcy proceedings, with district court jurisdiction over all cases between the bankrupt and creditors. The 1841 Act was highly sympathetic to debtors and increased their opportunities to discharge debts, leading to much criticism of the law and ultimately to its repeal.

In 1867, Congress passed a new bankruptcy statute granting the district and circuit courts expansive jurisdiction over ordinary bankruptcy suits. The 1867 Act was the first to include provisions for corporate bankruptcies, though the largest corporate businesses of the time, the railroads, did not rely on the bankruptcy laws, instead turning to the federal courts to direct financial reorganization. The 1867 Act was repealed in 1874.

Complications

After a financial crisis in the 1890s, Congress adopted a new bankruptcy law in 1898 providing for more narrow federal court jurisdiction than under previous acts. Under the Bankruptcy Act of 1898, ordinary controversies related to bankrupt estates would be heard primarily in the state courts. Court-appointed trustees were required to file multiple suits in different courts in connection with a single bankruptcy before being able to liquidate an estate or reorganize a corporation. Unsurprisingly, the 1898 Act created a great deal of confusion, leading to frequent litigation to determine jurisdiction.

During the early twentieth century, Congress passed a number of amendments to the 1898 Act expanding the bankruptcy jurisdiction of the district courts. In 1938, the Chandler Act established federal jurisdiction over large corporate reorganizations.

Rising numbers of bankruptcy filings in the 1960s and 1970s led to a major reform of the federal bankruptcy system. The 1978 Bankruptcy Reform Act, also known as the Bankruptcy Code, created new bankruptcy courts with expanded jurisdiction to hear all cases related to bankruptcy proceedings. The Act also created the position of U.S. bankruptcy judge in lieu of the referees in bankruptcy authorized under the 1898 statute. The goal of the new system was to create a single tribunal for bankruptcy disputes and end the confusion about responsibilities. The new bankruptcy courts had all the powers of courts of law, equity, and admiralty, with the ability to hold jury trials and enforce their own orders.

Constitutionality

In 1982, the Supreme Court ruled that the broad jurisdiction granted the bankruptcy courts by the 1978 Act was unconstitutional because bankruptcy judges lacked Article III protections. Congress responded in 1984 with the Bankruptcy Amendments and Federal Judgeship Act, which made the bankruptcy courts a unit of the district courts. The 1984 amendments established a distinction between "core" and "noncore" bankruptcy proceedings. The bankruptcy courts could hear and determine core matters, that is, those involving the bankrupt's property or assets within the jurisdiction of the bankruptcy statute. In noncore matters the bankruptcy courts could propose findings of fact and conclusions of law for review by the district courts.

The question of federal jurisdiction over cases related to a bankruptcy has become increasingly complex since the reorganization of the bankruptcy courts. Congressional statutes and court decisions have gradually expanded bankruptcy court jurisdiction over a range of actions related to bankruptcy proceedings. In 2011, however, the Supreme Court ruled that granting bankruptcy courts jurisdiction over certain state law counterclaims as part of their core proceedings was unconstitutional.

Suggested by the bankruptcy courts and advisory committees, *The Evolution of U.S. Bankruptcy Law: A Time Line* is the product of a long-term collaboration between bankruptcy judges, court staff, the Administrative Office of the U.S. Courts, and the Federal Judicial Center.

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