

/\* Chapter 9 is the infrequently used means that a municipality may use to work out its debts. \*/

## CHAPTER 9

### Adjustment of Debts of a Municipality

#### SUBCHAPTER I

##### General Provisions

#### SECTION 901 (11 U.S.C. 901)

901. Applicability of other sections of this title.

(a) Sections 301, 344, 347(b), 349, 350(b), 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(1), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 557, 1102, 1103, 1109, 1111(b), 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(6), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and 1145 of this title apply in a case under this chapter,

(b) A term used in a section of this title made applicable in a case under this chapter by subsection (a) of this section or section 103(e) of this title has the meaning defined for such term for the purpose of such applicable section, unless such term is otherwise defined in section 902 of this title.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

#### SECTION 902 (11 U.S.C. 902)

902. Definitions for this chapter. In this chapter-

(1) "property of the estate", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means property of the debtor;

(2) "special revenues" means-

(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

(B) special excise taxes imposed on particular activities or transactions;

(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor.

(3) special tax payer means record owner or holder of legal or equitable title to real property against which a special assessment or special tax has been levied the proceeds of which are the sole source of payment of an obligation issued by the debtor to defray the cost of an improvement relating to such real property;

(4) special tax payer affected by the plan means special tax payer with respect to whose real property the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (2) of this section assessed against such real property; and

(5) "trustee", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means debtor, except as provided in section 926 of this title.

#### SECTION 903 (11 U.S.C. 903)

903. Reservation of State power to control municipalities.

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise, but-

(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and

(2) a judgment entered under such a law may not bind a creditor that does not Consent to such composition.

#### SECTION 904 (11 U.S.C. 904)

904. Limitation on jurisdiction and powers of court. Notwithstanding any power of the Court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with-

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property.

#### SUBCHAPTER II

## Administration

### SECTION 921 (11 U.S.C. 921)

921. Petition and proceedings relating to petition.

(a) Notwithstanding sections 109(d) and 301 of this title, a case under this chapter concerning an unincorporated tax or special assessment district that does not have such district's own officials is commenced by the filing under section 301 of this title of a petition under this chapter by such district's governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of such district.

(b) The chief judge of the court of appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the case.

(c) After any objection to the petition, the court, after notice and a hearing, may dismiss the petition if the debtor did not file the petition in good faith or if the petition does not meet the requirements of this title.

(d) If the petition is not dismissed under subsection (c) of this section, the court shall order relief under this chapter.

(e) The court may not, on account of an appeal from an order for relief, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction does not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of this title.

/\* Unlike other sections of the code which ratify acts despite appeals unless stayed this section does not incorporate a requirement of "good faith." \*/

### SECTION 922 (11 U.S.C. 922)

922. Automatic stay of enforcement of claims against the debtor.

(a) A petition filed under this chapter operates as a stay, in addition to the stay provided by section 362 of this title, applicable to all entities, of-

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor; and

(2) the enforcement of a lien on or arising out of taxes or assessments owed to the debtor.

(b) Subsections (c), (d), (e), (f), and (g) of section 362 of this title apply to a stay under subsection (a) of this section the same as such subsections apply to a stay under section 362(a) of this title.

(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.

#### SECTION 923 (11 U.S.C. 923)

923. Notice. There shall be given notice of the commencement of a case under this chapter, notice of an order for relief under this chapter, and notice of the dismissal of a case under this chapter. Such notice shall also be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the district in which the case is commenced, and in such other newspaper having a general circulation among bond dealers and bondholders as the court designates.

#### SECTION 924 (11 U.S.C. 924)

924. List of creditors. The debtor shall file a list of creditors.

#### SECTION 925 (11 U.S.C. 925)

925. Effect of list of claims. A proof of claim is deemed filed under section 501 of this title for any claim that appears in the list filed under section 924 of this title, except a claim that is listed as disputed, contingent, or unliquidated.

#### SECTION 926 (11 U.S.C. 926)

926. Avoiding powers.

(a) If the debtor refuses to pursue a cause of action under section 544, 545, 547, 548, 549(a), or 550 of this title, then on request of a creditor, the court may appoint a trustee to pursue such cause of action.

(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.

#### SECTION 927 (11 U.S.C. 927)

927. Limitation on recourse.

The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.

#### SECTION 928 (11 U.S.C. 928)

928. Post petition effect of security interest.

(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.

#### SECTION 929 (11 U.S.C. 929)

929. Municipal leases.

A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.

#### SECTION 930 (11 U.S.C. 930)

930. Dismissal.

(a) After notice and a hearing, the court may dismiss a case under this chapter for cause, including --

(1) want of prosecution;

(2) unreasonable delay by the debtor that is prejudicial to creditors;

(3) failure to propose a plan within the time fixed under section 941 of this title;

/\* The plan must be filed with the petition, or, within a time limit set by the Court, which provides the Court with an extreme amount of discretion. \*/

(4) if a plan is not accepted within any time fixed by the court;

(5) denial of confirmation of a plan under section 943(b) of this title and denial of additional time for filing another plan or a modification of a plan; or

(6) if the court has retained jurisdiction after confirmation of a plan-

- (A) material default by the debtor with respect to a term of such plan; or
  - (B) termination of such plan by reason of the occurrence of a condition specified in such plan.
- (b) The court shall dismiss a case under this chapter if confirmation of a plan under this chapter is refused.

### SUBCHAPTER III

#### The Plan

#### SECTION 941 (11 U.S.C. 941)

941. Filing of plan. The debtor shall file a plan for the adjustment of the debtor's debts. If such plan is not filed with the petition, the debtor shall file such a plan at such later time as the court fixes.

#### SECTION 942 (11 U.S.C. 942)

942. Modification of plan. The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of this chapter. After the debtor files a modification, the plan as modified becomes the plan.

#### SECTION 943 (11 U.S.C. 943)

943. Confirmation.

- (a) A special tax payer may object to confirmation of a plan.
- (b) The court shall confirm the plan if-
  - (1) the plan complies with the provisions of this title made applicable by sections 103(e) and 901 of this title;
  - (2) the plan complies with the provisions of this chapter;
  - (3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;
  - (4) the debtor is not prohibited by law from taking any action necessary to carry out the plan;
  - (5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim;

- (6) any regulatory or electoral approval necessary under applicable non- bankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and
- (7) the plan is in the best interests of creditors and is feasible.

/\* No vote is provided for in this chapter. \*/

## SECTION 944 (11 U.S.C. 944)

### 944. Effect of confirmation.

- (a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not-
  - (1) a proof of such creditor's claim is filed or deemed filed under section 501 of this title;
  - (2) such claim is allowed under section 502 of this title; or
  - (3) such creditor has accepted the plan.
- (I) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when
  - (1) the plan is confirmed;
  - (2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and
  - (3) the court has determined
    - (A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and
    - (B) that any provision made to pay or secure payment of such obligation is valid.
- (c) The debtor is not discharged under subsection (b) of this section from any debt-
  - (1) excepted from discharge by the plan or order confirming the plan; or
  - (2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

## SECTION 945 (11 U.S.C. 945)

### 945. Continuing jurisdiction and closing of the case.

- (a) The court may retain jurisdiction over the case for such period of time as is necessary for the successful implementation of the plan.

(b) Except as provided in subsection (a) of this section, the court shall close the case when administration of the case has been completed.

SECTION 946 (11 U.S.C. 946) 946. Effect of exchange of securities before the date of the filing of the petition.

The exchange of a new security under the plan for a claim covered by the plan, whether such exchange occurred before or after the date of the filing of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The amount and number specified in Section 1126(c) of this title include the amount and number of claims formerly held by a creditor that has participated in any such exchange.