In dealing with legal questions about bankruptcy, the first places to look, of course, are the statute itself and the Federal Rules of Bankruptcy Procedure, the relevant parts of which are included in Appendices A [1] and B [2], infra, as well as relevant case law. Often, these will not provide sufficient answers, and other sources must be consulted.

Generally, the most important indicator of what Congress meant in a particular section of the Code is the legislative history. Because of the long gestation periods which produced both the final law and the later amendments, there are a number of parts to the legislative history. 113

The first major document in the evolution of the 1978 Bankruptcy Code was the report of the Commission on the Bankruptcy Laws. 114 The Commission, a special body set up by Congress, proposed a precursor to the final legislation and in its report explained its reasons for the provisions contained in its proposed bill. In the many areas in which the Bankruptcy Reform Act is identical or similar to the Commission’s proposal, the report of the Commission is an excellent explanatory authority. 115

Even more important are the House 115 and Senate 116 reports which accompanied the bills first passed by those two bodies (H.R. 8200 and S. 2266 of the 95th Congress). As these bills were in most respects identical to the final Act, the reports accompanying them are the most comprehensive and definitive explanation of congressional intent for many provisions.

Unlike most legislation, the Bankruptcy Reform Act never went to a conference committee of the two houses, so there is no conference report regarding how the differences between the House and Senate bills were reconciled. Instead, there are long and detailed floor statements by the sponsors in each house, who had met and worked out the differences among themselves. The floor statement of Representative Edwards 117 explains each change in the House bill which resulted from the compromises reached, and similarly the statement of Senator DeConcini 118 explains each change in the Senate bill.

Thus, in using the legislative history, the floor statements, which are the latest explanations, must be consulted first to see if there was any change from the previous bills, and if so whether any explanation for the change was given. Next, the report of each house and finally the Commission report should be checked. For very detailed research the many volumes of hearings, 119 reflecting the views of numerous parties on various provisions, are also available, as well as some congressional debate on earlier versions of the bill. 120

Footnotes


1.5.1.1 The Bankruptcy Reform Act of 1978


Source: National Consumer Law Center, Consumer Bankruptcy Law and Practice [12th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/bankr/01050101

Links