



The Evolution of U.S. Bankruptcy Law

a time line

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This unique bankruptcy time line maps the evolution of bankruptcy law since its inception in 1787 in the U.S. Constitution through 2006. It also provides statistics demonstrating the burgeoning bankruptcy caseloads, and historical snapshots of select sociopolitical events that occurred along the way. Additional information can be found on the Center's websites. Suggested by the bankruptcy courts and advisory committees, this time line is the product of a long-term collaboration among bankruptcy judges, court staff, the Administrative Office of the U.S. Courts, and the Federal Judicial Center.

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Bankruptcy Act of 1800 (2 Stat. 19) passes by one vote. The first federal bankruptcy law, the Act authorizes district court judges to appoint nonjudicial commissioners to oversee and help administer bankruptcy proceedings. Applying solely to merchant debtors with cases initiated by creditors, the Act allows discharges only if two-thirds of creditors (in number and dollar amount) agree. The Act contains a five-year sunset provision, in accordance with existing English law.

Bankruptcy Act of 1841 (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

1800

1803
Citing excessive costs and corruption, Congress repeals the Act of 1800. For the next three decades, the states will fill the legal void. In 1819, the U.S. Supreme Court bars states from discharging debts to citizens of other states.

1839
Federal law abolishes imprisonment for debt.

1841

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

NAMES & FACES

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 1877.

1867 1868 1869
7,346 29,539 5,921

1899
22, 446

1932
70, 049

1961
125,830

1983
374,734

1990
725,484

2000
1,597,462

Bankruptcy Act of 1867

(14 Stat. 517) marks the first time Congress refers to district courts as “constituted courts of bankruptcy” with original jurisdiction in all bankruptcy matters. The Act notably foreshadows today’s debtor-friendly Chapter 12 and 13 provisions by introducing the “composition agreement” allowing debtors and creditors to negotiate repayment—often for less than full compensation. Other key provisions of the Act include

- allowing district judges to appoint nonjudicial assistants, known as “registers in bankruptcy,” nominated by the Chief Justice
- allowing debtors to choose between state and federal exemptions
- requiring creditor consent to discharge, or payment of a 50% dividend

The 1867 Act also includes corporations under bankruptcy law for the first time.

Bankruptcy Act of 1898

(30 Stat. 544), is the first long-term bankruptcy legislation. In effect for the next 80 years, the Act establishes the position of referee to oversee administration of 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. They are paid a percentage of funds brought into the estate. Besides the referee position, the 1898 Act establishes the office of trustee (previously assignee) in bankruptcy. In general, the Act is perceived as pro-debtor, establishing relatively narrow exceptions to discharge. Corporations are ineligible for voluntary relief, but some can be involuntary debtors. (Amendments enacted in 1910 make corporations eligible for voluntary bankruptcy.)

Chandler Act of 1938

(52 Stat. 840, 841), an overhaul of the 1898 Act, 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.

Bankruptcy Reform Act of 1978

(92 Stat. 2657), superseding the 1898 Act, establishes bankruptcy courts in each district and allows for separate bankruptcy judges, appointed by the President and confirmed by the Senate, to serve 14-year terms beginning in 1984. 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 rather than Roman numerals are adopted for chapter titles.) The following year a pilot U.S. trustee program is established.

1982

In *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 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.

Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986

(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 standard trustees from the judicial to the executive branch in participating districts.

Bankruptcy Reform Act of 1994

(Public Law 103-394) 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

(Public Law 109-8), substantially amending the 1978 Act, establishes a means test based on state median income for individual debtors, makes credit counseling a condition for relief, and requires financial management training for Chapter 7 and 13 debtors to obtain discharge. In addition, the Act

- permits automatic dismissal if required documents are not filed
- eliminates the Chapter 13 “super discharge”
- eliminates “strip down” on most automobile loans in Chapter 13
- allows waiver of the bankruptcy filing fee and 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 recognizes international insolvency cases.

1867

1898

1938

1978

1986

1994

2005

1878

In response to abuses and excessive fees, Congress repeals the Acts of 1867 and 1874.

1874

Congress amends the 1867 Act so that debtors can create a plan for distributing assets among creditors as a way to settle a case.

1932

The National Bankruptcy Conference is created to study bankruptcy reform.

1933–1934

Amendments to the 1898 Act allow reorganization for railroads and corporations as well as individual debtors. Congress crafts the first municipal bankruptcy laws.

1936

On grounds of unconstitutional interference with state sovereignty, Congress repeals the 1934 Act.

1946

Compensation of referees is changed from a fee to a salary basis.

1960

The Supreme Court establishes the Advisory Committee on Rules.

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 reflective of current social and economic conditions.

1984

Congress passes the Bankruptcy Amendment and Federal Judgeship Act (98 Stat. 333), which 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.

1983

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

1998

Congress passes the Religious Liberty and Charitable Donation Protection Act of 1998, 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.

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. The commission is defunct as of November 19. Congress disregards most of its recommendations.

1860



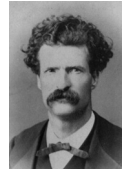
Abraham Lincoln (1809–1865) is elected President.

1881



Ulysses S. Grant, retired general and former President (1822–1885), 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. A company formed by the author will file for bankruptcy ten years later.

1902



The highly successful (but quite different) stage version of **L. Frank Baum’s** “The 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 two automobile companies failed.)

1917



Eddie Cantor stars in **Florenz Ziegfeld’s** “The Famous Follies.” By 1930, bad investments and free spending will leave The Great Ziegfeld bankrupt.

1923



Lois Wilson stars in Paramount’s “The Covered Wagon.” 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.

1948



Vic Damone croons on radio’s “Saturday Night Serenade.”

1953



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

1962



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 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.

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



Having lost ground to foreign competitors, **Bethlehem Steel** files for bankruptcy after nearly 150 years in business.

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.

2006



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