

**United States Code**

- **United States Code**
- **TITLE 11 — BANKRUPTCY**
- **CHAPTER 3 — CASE ADMINISTRATION**
- **SUBCHAPTER II — OFFICERS**

**11 U.S.C. § 330. Compensation of Officers.**

(a) (1) After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections **326**, **328**, and **329**, the court may award to a trustee, a consumer privacy ombudsman appointed under section **332**, an examiner, an ombudsman appointed under section **333**, or a professional person employed under section **327** or **1103** —

(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, ombudsman, professional person, or attorney and by any paraprofessional person employed by any such person; and

(B) reimbursement for actual, necessary expenses.

(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

(3) In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including —

(A) the time spent on such services;

(B) the rates charged for such services;

(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

(4) (A) Except as provided in subparagraph (B), the court shall not allow compensation for —

(i) unnecessary duplication of services; or

(ii) services that were not -

(I) reasonably likely to benefit the debtor's estate; or

(II) necessary to the administration of the case.

(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section **331**, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.

(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section **326**.

(b)(1) There shall be paid from the filing fee in a case under chapter 7 of this title \$45 to the trustee serving in such case, after such trustee's services are rendered.

(2) The Judicial Conference of the United States -

(A) shall prescribe additional fees of the same kind as prescribed under section **1914(b)** of title 28; and

(B) may prescribe notice of appearance fees and fees charged against distributions in cases under this title;

to pay \$15 to trustees serving in cases after such trustees' services are rendered. Beginning 1 year after the date of the enactment of the Bankruptcy Reform Act of 1994, such \$15 shall be paid in addition to the amount paid under paragraph (1).

(c) Unless the court orders otherwise, in a case under chapter 12 or 13 of this title the compensation paid to the trustee serving in the case shall not be less than \$5 per month from any distribution under the plan during the administration of the plan.

(d) In a case in which the United States trustee serves as trustee, the compensation of the trustee under this section shall be paid to the clerk of the bankruptcy court and deposited by the clerk into the United States Trustee System Fund established by section **589a** of title 28.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2564; Pub. L. 98-353, title III, Sec. 433, 434, July 10, 1984, 98 Stat. 370; Pub. L. 99-554, title II, Sec. 211, 257(f), Oct. 27, 1986, 100 Stat. 3099, 3114;

Pub. L. 103-394, title I, Sec. 117, title II, Sec. 224(b), Oct. 22, 1994, 108 Stat. 4119, 4130; Pub. L. 109-8, title II, Sec. 232(b), title IV, Secs. 407, 415, title XI, Sec. 1104(b), Apr. 20, 2005, 119 Stat. 74, 106, 107, 192.)

HISTORICAL AND REVISION NOTES  
LEGISLATIVE STATEMENTS

Section 330(a) contains the standard of compensation adopted in H.R. 8200 as passed by the House rather than the contrary standard contained in the Senate amendment. Attorneys' fees in bankruptcy cases can be quite large and should be closely examined by the court. However bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a case under title 11 at the same rate as the attorney or other professional would be compensated for performing comparable services other than in a case under title 11. Contrary language in the Senate report accompanying S. 2266 is rejected, and *Massachusetts Mutual Life Insurance Company v. Brock*, 405 F.2d 429, 432 (5th Cir. 1968) is overruled. Notions of economy of the estate in fixing fees are outdated and have no place in a bankruptcy code.

Section 330(a)(2) of the Senate amendment is deleted although the Securities and Exchange Commission retains a right to file an advisory report under section 1109.

Section 330(b) of the Senate amendment is deleted as unnecessary, as the limitations contained therein are covered by section 328(c) of H.R. 8200 as passed by the House and contained in the House amendment.

Section 330(c) of the Senate amendment providing for a trustee to receive a fee of \$20 for each estate from the filing fee paid to the clerk is retained as section 330(b) of the House amendment. The section will encourage private trustees to serve in cases under title 11 and in pilot districts will place less of a burden on the U.S. trustee to serve in no-asset cases.

Section 330(b) of H.R. 8200 as passed by the House is retained by the House amendment as section 330(c) (section 15330).

SENATE REPORT NO. 95-989

Section 330 authorizes the court to award compensation for services and reimbursement of expenses of officers of the estate, and other professionals. The compensation is to be reasonable, for economy in administration is the basic objective. Compensation is to be for actual necessary services, based on the time spent, the nature, the extent and the value of the services rendered, and the cost of comparable services in nonbankruptcy cases. There are the criteria that have been applied by the courts as analytic aids in defining "reasonable" compensation.

The reference to "the cost of comparable services" in a nonbankruptcy case is not intended as a change of existing law. In a bankruptcy case fees are not a matter for private agreement. There is inherent a "public interest" that "must be considered in awarding fees," *Massachusetts Mutual Life Insurance Co. v.*

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**11 U.S.C. § 331. Interim Compensation.**

A trustee, an examiner, a debtor's attorney, or any professional person employed under section **327** or **1103** of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section **330** of this title. After notice and a hearing, the court may allow and disburse to such applicant such compensation or reimbursement.

(Pub.L. 95-598, Nov. 6, 1978, 92 Stat. 2564.)

HISTORICAL AND REVISION NOTES  
SENATE REPORT NO. 95-989

Section 331 permits trustees and professional persons to apply to the court not more than once every 120 days for interim compensation and reimbursement payments. The court may permit more frequent applications if the circumstances warrant, such as in very large cases where the legal work is extensive and merits more frequent payments. The court is authorized to allow and order disbursement to the applicant of compensation and reimbursement that is otherwise allowable under section 330. The only effect of this section is to remove any doubt that officers of the estate may apply for, and the court may approve, compensation and reimbursement during the case, instead of being required to wait until the end of the case, which in some instances, may be years. The practice of interim compensation is followed in some courts today, but has been subject to some question. This section explicitly authorizes it.

This section will apply to professionals such as auctioneers and appraisers only if they are not paid on a per job basis.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section **330** of this title.

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