

This unique bankruptcy time line maps the evolution of bankruptcy law since its inception in 1787 in the U.S. Constitution through 2011. It also provides statistics demonstrating the burgeoning bankruptcy caseloads, and historical snapshots of select 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 between bankruptcy judges, court staff, the Administrative Office of the U.S. Courts, and the Federal Judicial Center.

The Evolution of U.S.

Bankruptcy Law *a time line*

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Past perceptions



Bankruptcy as Bluebeard. "Puck," 1913.



American Numismatic Society

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 (2 Stat. 19) passes by one vote. 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

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 (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.

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.

CASES FILED

1867 1868 1869
7,345 29,639 5,921

1899
22,446

1932
70,049

1961
126,830

1983
374,734

1990
726,484

2000
1,597,462

2006
617,660

2010
1,593,081

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

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.)

1937

Congress passes the revised Municipal Bankruptcy Act. Upheld by the Supreme Court, the legislation will come to be known as Chapter 9 bankruptcy.

Bankruptcy Reform Act of 1978

(92 Stat. 2667), 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.

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.

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 a briefing on credit counseling availability 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

(Public Law 111-203) 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 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

1867

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.

1898

The National Bankruptcy Conference is created to study bankruptcy reform.

1932

Congress passes the revised Municipal Bankruptcy Act. Upheld by the Supreme Court, the legislation will come to be known as Chapter 9 bankruptcy.

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.

1938

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

1964

Congress authorizes promulgation of the Supreme Court’s Bankruptcy Rules.

1978

Per the Supreme Court’s Rules of Bankruptcy Procedure, referees henceforth are known as bankruptcy judges and are conferred finality on findings.

1983

The Commission on Bankruptcy Laws submits its report, including draft legislation. The Supreme Court promulgates the Bankruptcy Rules and Official Forms to govern bankruptcy proceedings under the 1978 Act.

1986

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. 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 rule by the district court, absent consent of the parties.

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.

2005

2006

In *Central Virginia Community College v. Katz*, 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. plus American International Group’s (AIG’s) imminent collapse, Congress passes the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), creating the Troubled Assets Relief Program to pump money into the financial and automotive industries to stabilize them during a worldwide credit crisis.

2010

Congress passes the Credit CARD Act (Public Law 111-24), which prohibits certain unfair and abusive practices and makes credit card rates and fees more transparent.

2011

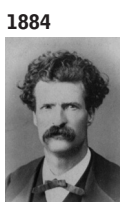
In *Stern v. Marshall*, the Supreme Court rules that bankruptcy judges lack the constitutional authority to enter final judgment based entirely on a state law counterclaim by a debtor against a claimant, a power reserved for Article III judges.



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. 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 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 two automobile companies failed.)



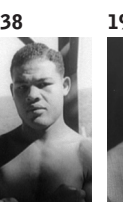
1917
Eddie Cantor stars in Paramount’s “The Florenz Ziegfeld’s famous Follies. By 1930, bad investments and free spending will leave The Great Ziegfeld bankrupt.



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.



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.



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.



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.



2011
The Los Angeles Dodgers file for Chapter 11 protection.