

105TH CONGRESS  
1ST SESSION

# H. R. 120

To make technical corrections to title 11, United States Code, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To make technical corrections to title 11, United States Code, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Bankruptcy Law Tech-  
5       nical Corrections Act of 1997”.

6       **SEC. 2. DEFINITIONS.**

7       Section 101 of title 11, United States Code, is  
8       amended—

9               (1) by striking “In this title—” and inserting

10       “In this title:”,

1           (2) in paragraph (51B) by inserting “family  
2 farms or” after “other than”,

3           (3) in paragraph (35)(B) by striking “para-  
4 graphs (21B) and (33)(A)” and inserting “para-  
5 graphs (23) and (35)”,

6           (4) in each paragraph by inserting “The term”  
7 after the paragraph designation,

8           (5) in paragraphs (35A) and (38) by striking  
9 “; and” at the end and inserting a period,

10          (6) in paragraph (54) by inserting “, creation  
11 of a lien,” after “security interest”,

12          (7) in paragraphs (1) through (35), in para-  
13 graphs (36) and (37), and in paragraphs (40)  
14 through (55), by striking the semicolon at the end  
15 and insert a period, and

16          (8) by redesignating paragraphs (4) through  
17 (55) in numerical sequence.

18 **SEC. 3. ADJUSTMENT OF DOLLAR AMOUNTS.**

19          Section 104 of title 11, United States Code, is  
20 amended by inserting “522(f)(3),” after “522(d),” each  
21 place it appears.

22 **SEC. 4. EXTENSION OF TIME.**

23          Section 108(c)(2) of title 11, United States Code, is  
24 amended by striking “922” and all that follows through  
25 “or”, and inserting “922, 1201, or”.

1 **SEC. 5. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**  
2 **FRAUDULENTLY PREPARE BANKRUPTCY**  
3 **PETITIONS.**

4 Section 110(j)(3) of title 11, United States Code, is  
5 amended by striking “attorney’s” and inserting  
6 “attorneys’ ”.

7 **SEC. 6. ELIGIBILITY TO SERVE AS TRUSTEE.**

8 Paragraphs (1) and (2) of section 321(a) of title 11,  
9 United States Code, are amended by striking “7, 12,” and  
10 inserting “12”.

11 **SEC. 7. EMPLOYMENT OF PROFESSIONAL PERSONS.**

12 (a) **AUTHORITY OF TRUSTEE.**—Section 327 of title  
13 11, United States Code, is amended—

14 (1) in subsection (b) by striking “section 721,,”  
15 and inserting “721,”,

16 (2) in subsection (c) by striking “chapter 7”  
17 and all that follows through “or” the first place it  
18 appears, and inserting “chapter 7, 12, or”, and

19 (3) in subsection (d) by striking “act as attor-  
20 ney or accountant” and inserting “render profes-  
21 sional services of the kind described in subsection  
22 (a)”.

23 (b) **LIMITATION ON COMPENSATION.**—Section 328(b)  
24 of title 11, United States Code, is amended—

1           (1) by striking “serve as an attorney or ac-  
2           countant” and inserting “render professional serv-  
3           ices”,

4           (2) by striking “such attorney or accountant”  
5           and inserting “a professional person who renders  
6           such services”,

7           (3) by striking “attorney or accountant” and  
8           inserting “such professional person”, and

9           (4) by striking “an attorney or accountant” and  
10          inserting “such a professional person”.

11 **SEC. 6. LIMITATION ON COMPENSATION OF PROFESSIONAL**  
12 **PERSONS.**

13          Section 328(a) of title 11, United States Code, is  
14          amended in subsection (a) by inserting “on a fixed or per-  
15          centage fee basis,” after “hourly basis,”.

16 **SEC. 7. COMPENSATION TO OFFICERS.**

17          Section 330(a) of title 11, United States Code, is  
18          amended—

19               (1) in paragraph (1) by inserting “, or the  
20               debtor’s attorney” after “1103”, and

21               (2) in paragraph (3) by striking “(3)(A) In”  
22               and inserting “(3) In”.

1 **SEC. 8. SPECIAL TAX PROVISIONS.**

2 Section 346(g)(1)(C) of title 11, United States Code,  
3 is amended by striking “, except” and all that follows  
4 through “1986”.

5 **SEC. 9. EFFECT OF CONVERSION.**

6 Section 348(f)(2) of title 11, United States Code, is  
7 amended by inserting “of the estate” after “property” the  
8 first place it appears.

9 **SEC. 10. AUTOMATIC STAY.**

10 Section 362 of title 11, United States Code, is  
11 amended—

12 (1) in subsection (b)(3) by inserting “or is  
13 taken with respect to a security interest that is cre-  
14 ated by a transfer to which section 547(c)(3) of this  
15 title applies” before the semicolon at the end, and

16 (2) in subsection (h) by striking “individual”  
17 and inserting “entity”.

18 **SEC. 11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

19 Section 365 of title 11, United States Code, is  
20 amended—

21 (1) in subsection (b)(2)—

22 (A) in subparagraph (C) by striking “or”  
23 at the end, and

24 (B) by striking subparagraph (D) and in-  
25 serting the following:

1           “(D) the satisfaction of any penalty rate in any  
2           executory contract or unexpired lease; or

3           “(E) the satisfaction of any provision relating  
4           to a default arising from any failure by the debtor  
5           to perform nonmonetary obligations under any execu-  
6           tory contract or unexpired lease other than an  
7           unexpired lease of personal property.”,

8           (2) in subsection (c)—

9                   (A) in paragraph (2) by adding “or” at the  
10           end,

11                   (B) in paragraph (3) by striking “or” at  
12           the end and inserting a period, and

13                   (C) by striking paragraph (4),

14           (3) in subsection (d) by striking paragraphs (5)  
15           through (9), and

16                   (4) in subsection (f)(1) by striking “; except  
17           that” and all that follows through the end of the  
18           paragraph and inserting a period.

19 **SEC. 12. AMENDMENT TO TABLE OF SECTIONS.**

20           The table of sections for chapter 5 by amending the  
21           item relating to section 556 to read as follows:

“556. Contractual right to liquidate a commodities contract or forward con-  
tract.”.

1 **SEC. 13. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

2 Section 503(b)(4) of title 11, United States Code, is  
3 amended by inserting “subparagraph (A), (B), (C), (D),  
4 or (E) of” before “paragraph (3)”.

5 **SEC. 14. PRIORITIES.**

6 Section 507(a) of title 11, United States Code, is  
7 amended—

8 (1) in paragraph (3)(B) by striking the semi-  
9 colon at the end and inserting a period, and

10 (2) in paragraph (7) by inserting “unsecured”  
11 after “allowed”.

12 **SEC. 15. EXEMPTIONS.**

13 Section 522 of title 11, United States Code, is  
14 amended—

15 (1) in subsection (f)(1)(A)(ii)(II)—

16 (A) by striking “includes a liability des-  
17 ignated as” and inserting “is for a liability that  
18 is designated as, and is actually in the nature  
19 of,”, and

20 (B) by striking “support.” and inserting  
21 “support”, and

22 (2) in subsection (g)(2) by striking “subsection  
23 (f)(2)” and inserting “subsection (f)(1)(B)”.

24 **SEC. 16. EXCEPTIONS TO DISCHARGE.**

25 Section 523 of title 11, United States Code, is  
26 amended—

1 (1) in subsection (a)(3) by striking “or (6)”  
2 each place it appears and inserting “(6), or (15)”,  
3 (2) as amended by section 304(e) of Public Law  
4 103–394 (108 Stat. 4133), in paragraph (15)—

5 (A) by inserting “or” after the semicolon  
6 at the end, and

7 (B) by transferring such paragraph so as  
8 to insert it after paragraph (14) of subsection  
9 (a),

10 (3) in subsection (a)(15), as so redesignated by  
11 paragraph (2), by inserting “to a spouse, former  
12 spouse, or child of the debtor and” after “(15)”,

13 (4) in subsection (a)(17)—

14 (A) by striking “by a court” and inserting  
15 “on a prisoner by a Federal court”, and

16 (B) by striking “section 1915 (b) or (f)”  
17 and inserting “subsection (b) or (f)(2) of sec-  
18 tion 1915”, and

19 (5) in subsection (e) by striking “a insured”  
20 and inserting “an insured”.

21 **SEC. 17. EFFECT OF DISCHARGE.**

22 Section 524(a)(3) of title 11, United States Code, is  
23 amended by striking “section 523” and all that follows  
24 through “or that”, and inserting “section 523,  
25 1228(a)(1), or 1328(a)(1) of this title, or that”.

1 **SEC. 18. PROTECTION AGAINST DISCRIMINATORY TREAT-**  
2 **MENT.**

3 Section 525(e) of title 11, United States Code, is  
4 amended—

5 (1) in paragraph (1) by inserting “student” be-  
6 fore “grant” the second place it appears, and

7 (2) in paragraph (2) by striking “the program  
8 operated under part B, D, or E of” and inserting  
9 “any program operated under”.

10 **SEC. 19. PROPERTY OF THE ESTATE.**

11 Section 541(b)(4)(B)(ii) of title 11, United States  
12 Code (as added by section 208(b) of the Bankruptcy Re-  
13 form Act of 1994), is amended by inserting “365 or” be-  
14 fore “542”.

15 **SEC. 20. LIMITATIONS ON AVOIDING POWERS.**

16 Section 546 of title 11, United States Code, is  
17 amended by redesignating the second subsection (g) as  
18 subsection (h).

19 **SEC. 21. LIABILITY OF TRANSFEREE OF AVOIDED TRANS-**  
20 **FER.**

21 (a) IN GENERAL.—Section 550(c) of title 11, United  
22 States Code, is amended—

23 (1) in paragraph (1) by striking “avoided under  
24 section 547(b)” and inserting “avoidable under sec-  
25 tion 547”, and

1           (2) in the matter following paragraph (2), by  
2           striking “recover under subsection (a) from a trans-  
3           feree that is not an insider” and inserting “avoid  
4           under section 547 such transfer, to the extent that  
5           such transfer was made for the benefit of a trans-  
6           feree that was not an insider at the time of such  
7           transfer, or recover under subsection (a) from a  
8           transferee that was not an insider at the time of  
9           such transfer”.

10          (b) CONFORMING AMENDMENT.—Section 547(b) of  
11          title 11, United States Code, is amended by inserting “or  
12          in section 550(c) of this title” after “subsection (c) of this  
13          section”.

14          **SEC. 22. SETOFF.**

15          Section 553(b)(1) of title 11, United States Code, is  
16          amended by striking “362(b)(14)” and inserting  
17          “362(b)(17)”.

18          **SEC. 23. DISPOSITION OF PROPERTY OF THE ESTATE.**

19          Section 726(b) of title 11, United States Code, is  
20          amended by striking “1009,”.

21          **SEC. 24. GENERAL PROVISIONS.**

22          Section 901(a) of title 11, United States Code, is  
23          amended by inserting “1123(d),” after “1123(b),”.

1 **SEC. 25. APPOINTMENT OF ELECTED TRUSTEE.**

2 Section 1104(b) of title 11, United States Code, is  
3 amended—

4 (1) by inserting “(1)” after “(b)”, and

5 (2) by adding at the end the following new  
6 paragraph:

7 “(2)(A) If an eligible, disinterested trustee is elected  
8 at a meeting of creditors under paragraph (1), the United  
9 States trustee shall file a report certifying that election.  
10 Upon the filing of a report under the preceding sentence—

11 “(i) the trustee elected under paragraph (1)  
12 shall be considered to have been selected and ap-  
13 pointed for purposes of this section, and

14 “(ii) the service of any trustee appointed under  
15 subsection (d) shall terminate.

16 “(B) In the case of any dispute arising out of an elec-  
17 tion under subparagraph (A), the court shall resolve the  
18 dispute.”.

19 **SEC. 26. ABANDONMENT OF RAILROAD LINE.**

20 Section 1170(e)(1) of title 11, United States Code,  
21 is amended by striking “section 11347” and inserting  
22 “section 11326(a)”.

23 **SEC. 27. CONTENTS OF PLAN.**

24 Section 1172(c)(1) of title 11, United States Code,  
25 is amended by striking “section 11347” and inserting  
26 “section 11326(a)”.

1 **SEC. 28. PAYMENTS.**

2 Section 1226(b)(2) of title 11, United States Code,  
3 is amended—

4 (1) by striking “1202(c) of this title” and in-  
5 serting “586(b) of title 28”, and

6 (2) by striking “1202(d) of this title” and in-  
7 serting “586(e)(1)(B) of title 28”.

8 **SEC. 29. DISCHARGE.**

9 Subsections (a) and (c) of section 1228 of title 11,  
10 United States Code, are amended by striking  
11 “1222(b)(10)” each place it appears and inserting  
12 “1222(b)(9)”.

13 **SEC. 30. CONTENTS OF PLAN.**

14 Section 1322 of title 11, United States Code, is  
15 amended—

16 (1) in subsection (b) by striking “(c)” and in-  
17 serting “(d)”, and

18 (2) in subsection (e) by striking the comma  
19 after “default” the second place it appears.

20 **SEC. 31. DISCHARGE.**

21 Section 1328(a) of title 11, United States Code, is  
22 amended by striking all after “except any debt—” and in-  
23 serting the following:

24 “(1) provided for under section 1322(b)(5) of  
25 this title;

1           “(2) of the kind specified in paragraph (5), (8),  
2           or (9) of section 523(a) of this title; or

3           “(3) for restitution, or a criminal fine, included  
4           in a sentence on the debtor’s conviction of a crime.”.

5 **SEC. 32. BANKRUPTCY CASES AND PROCEEDINGS.**

6           Section 1334(d) of title 28, United States Code, is  
7 amended—

8           (1) by striking “made under this subsection”  
9           and inserting “made under subsection (c)”, and

10           (2) by striking “This subsection” and inserting  
11           “Subsection (c) and this subsection”.

12 **SEC. 33. BANKRUPTCY REVIEW COMMISSION.**

13           Section 604 of the Bankruptcy Reform Act of 1994  
14 (108 Stat. 4147) is amended—

15           (1) by striking subsection (g), and

16           (2) by redesignating subsection (h) as sub-  
17           section (g).

18 **SEC. 34. KNOWING DISREGARD OF BANKRUPTCY LAW OR**

19                           **RULE.**

20           Section 156(a) of title 18, United States Code, is  
21 amended—

22           (1) in the first undesignated paragraph—

23                           (A) by inserting “(1) the term” before  
24           “ ‘bankruptcy’”, and

1 (B) by striking the period at the end and  
2 inserting “; and”, and

3 (2) in the second undesignated paragraph—

4 (A) by inserting “(2) the term” before  
5 “ ‘document’”, and

6 (B) by striking “this title” and inserting  
7 “title 11”.

8 **SEC. 35. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

9 (a) EFFECTIVE DATE.—Except as provided in sub-  
10 section (b), this Act and the amendments made by this  
11 Act shall take effect on the date of the enactment of this  
12 Act.

13 (b) APPLICATION OF AMENDMENTS.—The amend-  
14 ments made by this Act shall apply only with respect to  
15 cases commenced under title 11 of the United States Code  
16 on or after the date of the enactment of this Act.

○