

Calendar No. 394

105TH CONGRESS
2^D SESSION

S. 1301

A BILL

To amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

JUNE 4 (legislative day, JUNE 2), 1998

Reported with an amendment

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To amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 1997

Mr. GRASSLEY (for himself and Mr. DURBIN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

JUNE 4 (legislative day, JUNE 2), 1998

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 11, United States Code, to provide for consumer bankruptcy protection, 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 “Consumer Bankruptcy
5 Reform Act of 1997”.

1 **TITLE I—NEEDS BASED**
 2 **BANKRUPTCY**

3 **SEC. 101. CONVERSION.**

4 Section 706(e) of title 11, United States Code, is
 5 amended by striking “13”.

6 **SEC. 102. DISMISSAL OR CONVERSION.**

7 (a) **IN GENERAL.**—Section 707 of title 11, United
 8 States Code, is amended—

9 (1) by striking the section heading and insert-
 10 ing the following:

11 **“§ 707. Dismissal of a case or conversion to a case**
 12 **under chapter 13”;**

13 and

14 (2) in subsection (b)—

15 (A) by inserting “(1)” after “(b)”; and

16 (B) in paragraph (1), as redesignated by
 17 subparagraph (A) of this paragraph—

18 (i) in the first sentence—

19 (I) by striking “, but not at the
 20 request or suggestion of a party in in-
 21 terest,”;

22 (II) by inserting “, or, with the
 23 debtor’s consent, convert such a case
 24 to a case under chapter 13 of this
 25 title,” after “consumer debts”; and

1 (III) by striking “substantial
2 abuse” and inserting “abuse”; and
3 (ii) by striking the last sentence and
4 inserting the following:

5 “(2) In considering under paragraph (1) whether the
6 granting of relief would be an abuse of the provisions of
7 this chapter, the court shall consider whether—

8 “(A) under section 1325(b)(1) of this title, on
9 the basis of the current income of the debtor, the
10 debtor could pay an amount greater than or equal
11 to 20 percent of unsecured claims that are not con-
12 sidered to be priority claims (as determined under
13 subchapter I of chapter 5 of this title);

14 “(B) the debtor filed a petition for the relief in
15 bad faith; and

16 “(C)(i) the debtor made good-faith efforts, be-
17 fore the filing of the petition, to negotiate an alter-
18 native repayment schedule or to use alternative
19 methods of dispute resolution; and

20 “(ii) if the debtor made efforts described in
21 clause (i), the creditors of that debtor unreasonably
22 refused to engage in the alternative methods of dis-
23 pute resolution or to negotiate an alternative repay-
24 ment schedule.

1 “(3)(A) If a panel trustee appointed under section
2 586(a)(1) of title 28 brings a motion for dismissal or con-
3 version under this subsection and the court grants that
4 motion, the court shall order the counsel for the debtor,
5 if the debtor is represented by counsel, to reimburse the
6 trustee for all reasonable costs in prosecuting the motion,
7 including reasonable attorneys’ fees.

8 “(B) If the court finds that the attorney for the debt-
9 or violated Rule 9011, at a minimum, the court shall
10 order—

11 “(i) the assessment of an appropriate civil pen-
12 alty against the counsel for the debtor; and

13 “(ii) the payment of the civil penalty to the
14 panel trustee or the United States trustee.

15 “(C) In the case of a petition referred to in subpara-
16 graph (B), the signature of an attorney shall constitute
17 a certificate that the attorney has—

18 “(i) performed a reasonable investigation into
19 the circumstances that gave rise to the petition; and

20 “(ii) determined that the petition—

21 “(I) is well grounded in fact; and

22 “(II) is warranted by existing law or a
23 good faith argument for the extension, modi-
24 fication, or reversal of existing law and does not

1 constitute an abuse under paragraph (1) of this
2 subsection.

3 “(4) The court shall award a debtor all reasonable
4 costs in contesting a motion brought by a party in interest
5 under this subsection (including reasonable attorneys’ fees
6 and actual damages in an amount not less than \$5,000)
7 if—

8 “(A) the court does not grant the motion; and

9 “(B) the court finds that—

10 “(i) the position of the party that brought
11 the motion was not substantially justified; or

12 “(ii) the party brought the motion solely
13 for the purpose of coercing a debtor into
14 waiving a right guaranteed to the debtor under
15 this title.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 7 of title 11, United States
18 Code, is amended by striking the item relating to section
19 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 13.”.

20 **TITLE II—ENHANCED PROCE-**
21 **DURAL PROTECTIONS FOR**
22 **CONSUMERS**

23 **SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.**

24 Section 502 of title 11, United States Code, is
25 amended by adding at the end the following:

1 “(k)(1) The court shall award the debtor reasonable
2 attorneys’ fees and costs if, after an objection is filed by
3 a debtor, the court—

4 “(A) disallows the claim; or

5 “(B) reduces the claim by an amount greater
6 than 5 percent of the amount of the initial claim
7 filed by a party in interest.

8 “(2) If the court finds that the position of a claimant
9 under this section is not substantially justified, the court
10 shall, in addition to awarding a debtor reasonable attor-
11 neys’ fees and costs under paragraph (1), award additional
12 punitive damages in the amount of \$5,000.”.

13 **SEC. 202. EXCEPTIONS TO DISCHARGE.**

14 Section 523 of title 11, United States Code, is
15 amended to read as follows:

16 “(d)(1) If a creditor requests a determination of
17 dischargeability of a consumer debt under this section and
18 that debt is discharged, the court shall award the debtor
19 reasonable attorneys’ fees and costs.

20 “(2) In addition to making an award to a debtor
21 under paragraph (1), if the court finds that the position
22 of a creditor in a proceeding covered under this section
23 is not substantially justified, the court shall, in addition
24 to making an award of reasonable attorneys’ fees and

1 costs under paragraph (1); award an amount equal to the
 2 greater of—

3 “(A)(i) the amount of actual damages; multi-
 4 plied by

5 “(ii) 3; or

6 “(B) \$5,000.”.

7 **SEC. 203. EFFECT OF DISCHARGE.**

8 Section 524 of title 11, United States Code, is
 9 amended by adding at the end the following:

10 “(i) The failure of a creditor to credit payments re-
 11 ceived under a plan confirmed under this title (including
 12 a plan of reorganization confirmed under chapter 11 of
 13 this title) in the manner required by the plan (including
 14 crediting the amounts required under the plan) shall con-
 15 stitute a violation of an injunction under subsection (a)(2).

16 “(j)(1) Except as provided in paragraph (2), a credi-
 17 tor may not charge a debtor, or the account of a debtor,
 18 for attorneys’ fees or costs for work performed in connec-
 19 tion with a case brought under this title.

20 “(2) Any charge made by a creditor in violation of
 21 this subsection shall constitute a violation of an injunction
 22 under subsection (a)(2).

23 “(k) An individual who is injured by the failure of
 24 a creditor to comply with the requirements for a reaffirma-
 25 tion agreement under subsections (c) and (d), or by any

1 willful violation of the injunction under subsection (a)(2);
 2 shall be entitled to recover—

3 ~~“(1) the greater of—~~

4 ~~“(A)(i) the amount of actual damages;~~
 5 ~~multiplied by~~

6 ~~“(ii) 3; or~~

7 ~~“(B) \$5,000; and~~

8 ~~“(2) costs and attorneys’ fees.”.~~

9 **SEC. 204. AUTOMATIC STAY.**

10 Section 362(h) of title 11, United States Code, is
 11 amended to read as follows:

12 ~~“(h)(1) An individual who is injured by any willful~~
 13 ~~violation of a stay provided in this section shall be entitled~~
 14 ~~to recover—~~

15 ~~“(A) the greater of—~~

16 ~~“(i)(I) the amount of actual damages; mul-~~
 17 ~~tiplied by~~

18 ~~“(II) 3; or~~

19 ~~“(ii) \$5,000; and~~

20 ~~“(B) costs and attorneys’ fees.~~

21 ~~“(2) In addition to recovering actual damages, costs,~~
 22 ~~and attorneys’ fees under paragraph (1), an individual de-~~
 23 ~~scribed in paragraph (1) may recover punitive damages~~
 24 ~~in appropriate circumstances.”.~~

1 **SEC. 205. WHO MAY BE A DEBTOR.**

2 Section 727 of title 11, United States Code, is
3 amended by adding at the end the following:

4 “(F)(1) In any case in which a creditor files a motion
5 to deny relief to a debtor under this section and that mo-
6 tion is denied or withdrawn, the court shall award the
7 debtor reasonable attorneys’ fees and costs.

8 “(2) If the court finds that the position of a party
9 filing a motion under this section is not substantially justi-
10 fied, the court shall assess against the creditor for pay-
11 ment to the debtor a payment in an amount equal to the
12 greater of—

13 “(A)(i) the amount of actual damages; multi-
14 plied by

15 “(ii) 3; or

16 “(B) \$5,000.”.

17 **TITLE III—IMPROVED PROCE-**
18 **DURES FOR EFFICIENT AD-**
19 **MINISTRATION OF THE BANK-**
20 **RUPTCY SYSTEM**

21 **SEC. 301. NOTICE OF ALTERNATIVES.**

22 (a) IN GENERAL.—Section 342 of title 11, United
23 States Code, is amended by striking subsection (b) and
24 inserting the following:

25 “(b) Before the commencement of a case under this
26 title by an individual whose debts are primarily consumer

1 debts, that individual shall be given or obtain (as required
2 in section 521(a)(1), as part of the certification process
3 under subchapter 1 of chapter 5 of this title) a written
4 notice prescribed by the United States trustee for the dis-
5 trict in which the petition is filed pursuant to section 586
6 of title 28. The notice shall contain the following:

7 “(1) A brief description of chapters 7, 11, 12,
8 and 13 of this title and the general purpose, bene-
9 fits, and costs of proceeding under each of those
10 chapters.

11 “(2) A brief description of services that may be
12 available to that individual from an independent
13 nonprofit debt counseling service.

14 “(3)(A) The name, address, and telephone
15 number of each nonprofit debt counseling service
16 with an office located in the district in which the pe-
17 tition is filed, if any.

18 “(B) Any nonprofit debt counseling service de-
19 scribed in subparagraph (A) that has registered with
20 the clerk of the bankruptcy court on or before De-
21 cember 10 of the preceding year shall be included in
22 the list referred to in that clause, unless the chief
23 bankruptcy judge of the district involved, after giv-
24 ing notice to the debt counseling service and the
25 United States trustee and opportunity for a hearing,

1 orders, for good cause, that a particular debt coun-
2 seling service shall not be so listed.”; and

3 (b) DEBTOR’S DUTIES.—Section 521 of title 11,
4 United States Code, is amended—

5 (1) by inserting “(a)” before “The debtor
6 shall—”;

7 (2) by striking paragraph (1) and inserting the
8 following:

9 “(1) file—

10 “(A) a list of creditors; and

11 “(B) unless the court orders otherwise—

12 “(i) a schedule of assets and liabil-
13 ities;

14 “(ii) a schedule of current income and
15 current expenditures;

16 “(iii) a statement of the debtor’s fi-
17 nancial affairs and, if applicable, a certifi-
18 cate—

19 “(I) of an attorney whose name
20 is on the petition as the attorney for
21 the debtor or any bankruptcy petition
22 preparer signing the petition pursuant
23 to section 110(b)(1) of this title indi-
24 cating that such attorney or bank-
25 ruptcy petition preparer delivered to

1 the debtor any notice required by sec-
2 tion 342(b) of this title; or

3 “(II) if no attorney for the debt-
4 or is indicated and no bankruptcy pe-
5 tition preparer signed the petition, of
6 the debtor that such notice was ob-
7 tained and read by the debtor;

8 “(iv) copies of any Federal tax re-
9 turns, including any schedules or attach-
10 ments, filed by the debtor for the 3-year
11 period preceding the order for relief;

12 “(v) copies of all payment advices or
13 other evidence of payment, if any, received
14 by the debtor from any employer of the
15 debtor in the period 60 days prior to the
16 filing of the petition;

17 “(vi) a statement of the amount of
18 projected monthly net income, itemized to
19 show how calculated;

20 “(vii) if applicable, any statement
21 under paragraphs (3) and (4) of section
22 109(h); and

23 “(viii) a statement disclosing any rea-
24 sonably anticipated increase in income or

1 expenditures over the 12-month period fol-
2 lowing the date of filing;” and

3 ~~(3)~~ by adding at the end the following:

4 “(b)(1) At any time, a creditor, in the case of an indi-
5 vidual under chapter 7 or 13, may file with the court no-
6 tice that the creditor requests the petition, schedules, and
7 a statement of affairs filed by the debtor in the case and
8 the court shall make those documents available to the
9 creditor who requests those documents.

10 “(2) At any time, a creditor, in a case under chapter
11 13, may file with the court notice that the creditor re-
12 quests the plan filed by the debtor in the case and the
13 court shall make that plan available to the creditor who
14 requests that plan.

15 “(c) An individual debtor in a case under chapter 7
16 or 13 shall file with the court—

17 “(1) at the time filed with the taxing authority,
18 all tax returns, including any schedules or attach-
19 ments, with respect to the period from the com-
20 mencement of the case until such time as the case
21 is closed;

22 “(2) at the time filed with the taxing authority,
23 all tax returns, including any schedules or attach-
24 ments, that were not filed with the taxing authority
25 when the schedules under subsection (a)(1) were

1 filed with respect to the period that is 3 years before
2 the order for relief;

3 “(3) any amendments to any of the tax returns,
4 including schedules or attachments, described in
5 paragraph (1) or (2); and

6 “(4) in a case under chapter 13, a statement
7 subject to the penalties of perjury by the debtor of
8 the debtor’s income and expenditures in the preced-
9 ing tax year and monthly income, that shows how
10 the amounts are calculated—

11 “(A) beginning on the date that is the
12 later of 90 days after the close of the debtor’s
13 tax year or 1 year after the order for relief, un-
14 less a plan has been confirmed; and

15 “(B) thereafter on or before the date that
16 is 45 days before each anniversary of the con-
17 firmation of the plan until the case is closed.

18 “(d)(1) A statement referred to in subsection (c)(4)
19 shall disclose—

20 “(A) the amount and sources of income of the
21 debtor;

22 “(B) the identity of any persons responsible
23 with the debtor for the support of any dependents of
24 the debtor; and

1 ~~“(C) any persons who contributed and the~~
2 ~~amount contributed to the household in which the~~
3 ~~debtor resides.~~

4 ~~“(2) The tax returns, amendments, and statement of~~
5 ~~income and expenditures described in paragraph (1) shall~~
6 ~~be available to the United States trustee, any bankruptcy~~
7 ~~administrator, any trustee, and any party in interest for~~
8 ~~inspection and copying.”.~~

9 ~~(c) TITLE 28.—Section 586(a) of title 28, United~~
10 ~~States Code, is amended—~~

11 ~~(1) in paragraph (5) by striking “and” at the~~
12 ~~end;~~

13 ~~(2) in paragraph (6) by striking the period at~~
14 ~~the end and inserting “; and”;~~ and

15 ~~(3) by adding at the end the following:~~

16 ~~“(7) on or before January 1 of each calendar~~
17 ~~year, and also not later than 30 days after any~~
18 ~~change in the nonprofit debt counseling services reg-~~
19 ~~istered with the bankruptcy court, prescribe and~~
20 ~~make available on request the notice described in~~
21 ~~section 342(b)(3) of title 11 for each district in-~~
22 ~~cluded in the region.”.~~

1 **SEC. 302. FAIR TREATMENT OF SECURED CREDITORS**
 2 **UNDER CHAPTER 13.**

3 Section 1325(a)(5)(B)(i) of title 11, United States
 4 Code, is amended to read as follows:

5 “(B)(i) the plan provides that the holder of
 6 such claim retain the lien securing such claim
 7 until the debt that is the subject of the claim
 8 is fully paid for, as provided under the plan;
 9 and”.

10 **SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FIL-**
 11 **INGS.**

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

14 (1) in subsection (c)—

15 (A) by inserting “(1)” before “Except as”;

16 (B) by striking “(1) the stay” and insert-
 17 ing “(A) the stay”;

18 (C) by striking “(2) the stay” and insert-
 19 ing “(B) the stay”;

20 (D) by striking “(A) the time” and insert-
 21 ing “(i) the time”; and

22 (E) by striking “(B) the time” and insert-
 23 ing “(ii) the time”; and

24 (2) by adding at the end the following:

25 “(2) Except as provided in subsections (d) through
 26 (f), the stay under subsection (a) with respect to any ac-

1 tion taken with respect to a debt or property securing such
2 debt or with respect to any lease shall terminate with re-
3 spect to the debtor on the 30th day after the filing of the
4 later case if—

5 “(A) a single or joint case is filed by or against
6 an individual debtor under chapter 7, 11, or 13; and

7 “(B) a single or joint case of that debtor (other
8 than a case refiled under a chapter other than chap-
9 ter 7 after dismissal under section 707(b) of this
10 title) was pending during the preceding year but was
11 dismissed.

12 “(3) If a party in interest so requests, the court may
13 extend the stay in a particular case with respect to 1 or
14 more creditors (subject to such conditions or limitations
15 as the court may impose) after providing notice and a
16 hearing completed before the expiration of the 30-day pe-
17 riod described in paragraph (2) only if the party in inter-
18 est demonstrates that the filing of the later case is in good
19 faith with respect to the creditors to be stayed.

20 “(4) A case shall be presumed to have not been filed
21 in good faith (except that such presumption may be rebut-
22 ted by clear and convincing evidence to the contrary)—

23 “(A) with respect to the creditors involved, if—

24 “(i) more than 1 previous case under any
25 of chapters 7, 11, or 13 of this title in which

1 the individual was a debtor was pending during
2 the 1-year period described in paragraph (1);

3 “(ii) a previous case under any of chapters
4 7, 11, or 13 of this title in which the individual
5 was a debtor was dismissed within the period
6 specified in paragraph (2) after—

7 “(I) the debtor, after having received
8 from the court a request to do so, failed to
9 file or amend the petition or other docu-
10 ments as required by this title; or

11 “(II) the debtor, without substantial
12 excuse, failed to perform the terms of a
13 plan that was confirmed by the court; or

14 “(iii)(I) during the period commencing
15 with the dismissal of the next most previous
16 case under chapter 7, 11, or 13 there has not
17 been a substantial change in the financial or
18 personal affairs of the debtor;

19 “(II) if the case is a chapter 7 case, there
20 is no other reason to conclude that the later
21 case will be concluded with a discharge; or

22 “(III) if the case is a chapter 11 or 13
23 case, there is not a confirmed plan that will be
24 fully performed; and

1 ~~“(B) with respect to any creditor that com-~~
2 ~~menced an action under subsection (d) in a previous~~
3 ~~case in which the individual was a debtor, if, as of~~
4 ~~the date of dismissal of that case, that action was~~
5 ~~still pending or had been resolved by terminating,~~
6 ~~conditioning, or limiting the stay with respect to ac-~~
7 ~~tions of that creditor.~~

8 ~~“(5)(A) If a request is made for relief from the stay~~
9 ~~under subsection (a) with respect to real or personal prop-~~
10 ~~erty of any kind, and the request is granted in whole or~~
11 ~~in part, the court may, in addition to making any other~~
12 ~~order under this subsection, order that the relief so grant-~~
13 ~~ed shall be in rem either—~~

14 ~~“(i) for a definite period of not less than 1~~
15 ~~year; or~~

16 ~~“(ii) indefinitely.~~

17 ~~“(B)(i) After an order is issued under subparagraph~~
18 ~~(A), the stay under subsection (a) shall not apply to any~~
19 ~~property subject to such an in rem order in any case of~~
20 ~~the debtor.~~

21 ~~“(ii) If an in rem order issued under subparagraph~~
22 ~~(A) so provides, the stay shall, in addition to being inap-~~
23 ~~plicable to the debtor involved, not apply with respect to~~
24 ~~an entity under this title if—~~

1 “(I) the entity had reason to know of the
2 order at the time that the entity obtained an in-
3 terest in the property affected; or

4 “(II) the entity was notified of the com-
5 mencement of the proceeding for relief from the
6 stay; and at the time of the notification, no case
7 in which the entity was a debtor was pending.

8 “(6) For purposes of this section, a case is pending
9 during the period beginning with the issuance of the order
10 for relief and ending at such time as the case involved
11 is closed.”.

12 **SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS**

13 **UNDER CHAPTER 13.**

14 (a) **FILING OF PLAN.**—Section 1321 of title 11,
15 United States Code, is amended to read as follows:

16 **“§ 1321. Filing of plan**

17 “The debtor shall file a plan not later than 90 days
18 after the order for relief under this chapter, except that
19 the court may extend such period if the need for an exten-
20 sion is attributable to circumstances for which the debtor
21 should not justly be held accountable.”.

22 (b) **CONFIRMATION OF HEARING.**—Section 1324 of
23 title 11, United States Code, is amended by adding at the
24 end the following: “That hearing shall be held not later

1 than 45 days after the filing of the plan, unless the court,
 2 after providing notice and a hearing, orders otherwise.”.

3 **SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY**
 4 **WHEN THE STAY PROTECTS THE DEBTOR.**

5 Section 1301(b) of title 11, United States Code, is
 6 amended—

7 (1) by inserting “(1)” after “(b)”; and

8 (2) by adding at the end the following:

9 “(2)(A) Notwithstanding subsection (e) and except as
 10 provided in subparagraph (B), in any case in which the
 11 debtor did not receive the consideration for the claim held
 12 by a creditor, the stay provided by subsection (a) shall
 13 apply to that creditor for a period not to exceed 30 days
 14 beginning on the date of the order for relief, to the extent
 15 the creditor proceeds against—

16 “(i) the individual that received that consider-
 17 ation; or

18 “(ii) property not in the possession of the debt-
 19 or that secures that claim.

20 “(B) In any case described in subparagraph (A), a
 21 creditor may not proceed against an individual described
 22 in subparagraph (A)(i) or property described in subpara-
 23 graph (A)(ii), if the debtor who did not receive consider-
 24 ation for the property that is the subject of the claim is

1 able to demonstrate that the receipt of the property was
 2 not part of a scheme to defraud or hinder any creditor.

3 “(3) Notwithstanding subsection (c), the stay pro-
 4 vided by subsection (a) shall terminate as of the date of
 5 confirmation of the plan, in any case in which the plan
 6 of the debtor provides that the debtor’s interest in per-
 7 sonal property subject to a lease with respect to which the
 8 debtor is the lessee will be surrendered or abandoned or
 9 no payments will be made under the plan on account of
 10 the debtor’s obligations under the lease.”.

11 **SEC. 306. IMPROVED BANKRUPTCY STATISTICS.**

12 (a) AMENDMENT.—Chapter 6 of part I of title 28,
 13 United States Code, is amended by adding at the end the
 14 following:

15 **“§ 159. Bankruptcy statistics**

16 “(a) The clerk of each district shall compile statistics
 17 regarding individual debtors with primarily consumer
 18 debts seeking relief under chapters 7, 11, and 13 of title
 19 11. Those statistics shall be in a form prescribed by the
 20 Director of the Administrative Office of the United States
 21 Courts (referred to in this section as the ‘Office’).

22 “(b) The Director shall—

23 “(1) compile the statistics referred to in sub-
 24 section (a);

1 ~~“(2) make the statistics available to the public;~~
2 and

3 ~~“(3) not later than October 31, 1998, and an-~~
4 ~~nually thereafter, prepare, and submit to Congress a~~
5 ~~report concerning the information collected under~~
6 ~~subsection (a) that contains an analysis of the infor-~~
7 ~~mation.~~

8 ~~“(e) The compilation required under subsection (b)~~
9 ~~shall—~~

10 ~~“(1) be itemized, by chapter, with respect to~~
11 ~~title 11;~~

12 ~~“(2) be presented in the aggregate and for each~~
13 ~~district; and~~

14 ~~“(3) include information concerning—~~

15 ~~“(A) the total assets and total liabilities of~~
16 ~~the debtors described in subsection (a); and in~~
17 ~~each category of assets and liabilities, as re-~~
18 ~~ported in the schedules prescribed pursuant to~~
19 ~~section 2075 of this title and filed by those~~
20 ~~debtors;~~

21 ~~“(B) the current total monthly income;~~
22 ~~projected monthly net income; and average in-~~
23 ~~come and average expenses of those debtors as~~
24 ~~reported on the schedules and statements that~~

1 each such debtor files under sections 111, 521,
2 and 1322 of title 11;

3 “(C) the aggregate amount of debt dis-
4 charged in the reporting period, determined as
5 the difference between the total amount of debt
6 and obligations of a debtor reported on the
7 schedules and the amount of such debt reported
8 in categories which are predominantly non-
9 dischargeable;

10 “(D) the average period of time between
11 the filing of the petition and the closing of the
12 case;

13 “(E) for the reporting period—

14 “(i) the number of cases in which a
15 reaffirmation was filed; and

16 “(ii)(I) the total number of reaffirma-
17 tions filed;

18 “(II) of those cases in which a reaffir-
19 mation was filed, the number in which the
20 debtor was not represented by an attorney;
21 and

22 “(III) of those cases, the number of
23 cases in which the reaffirmation was ap-
24 proved by the court;

1 “(F) with respect to cases filed under
2 chapter 13 of title 11, for the reporting pe-
3 riod—

4 “(i)(I) the number of cases in which a
5 final order was entered determining the
6 value of property securing a claim in an
7 amount less than the amount of the claim;
8 and

9 “(II) the number of final orders deter-
10 mining the value of property securing a
11 claim issued;

12 “(ii) the number of cases dismissed
13 for failure to make payments under the
14 plan; and

15 “(iii) the number of cases in which
16 the debtor filed another case within the 6
17 years previous to the filing; and

18 “(G) the extent of creditor misconduct and
19 any amount of punitive damages awarded by
20 the court for creditor misconduct.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 6 of title 28, United States
23 Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by
 2 this section shall take effect 18 months after the date of
 3 enactment of this Act.

4 **SEC. 307. AUDIT PROCEDURES.**

5 (a) **AMENDMENT.**—Section 586 of title 28, United
 6 States Code, is amended—

7 (1) in subsection (a), as amended by section
 8 301 of this Act, by striking paragraph (6) and in-
 9 serting the following:

10 “~~(6)~~ make such reports as the Attorney General
 11 directs, including the results of audits performed
 12 under subsection (f); and”;

13 (2) by adding at the end the following:

14 “~~(f)(1)(A)~~ The Attorney General shall establish pro-
 15 cedures for the auditing of the accuracy and completeness
 16 of petitions, schedules, and other information which the
 17 debtor is required to provide under sections 521 and 1322
 18 of title 11, and, if applicable, section 111 of title 11, in
 19 individual cases filed under chapter 7 or 13 of such title.

20 “~~(B)~~ The audits described in subparagraph (A) shall
 21 be made in accordance with generally accepted auditing
 22 standards and performed by independent certified public
 23 accountants or independent licensed public accountants.
 24 Those procedures shall—

1 “(i) establish a method of selecting appropriate
2 qualified persons to contract with the United States
3 trustee to perform those audits;

4 “(ii) establish a method of randomly selecting
5 cases to be audited according to generally accepted
6 auditing standards, except that not less than 1 out
7 of every 50 cases in each Federal judicial district
8 shall be selected for audit;

9 “(iii) require audits for schedules of income and
10 expenses which reflect greater than average
11 variances from the statistical norm of the district in
12 which the schedules were filed; and

13 “(iv) establish procedures for—

14 “(I) reporting the results of those audits
15 and any material misstatement of income, ex-
16 penditures, or assets of a debtor to the Attor-
17 ney General, the United States Attorney and
18 the court, as appropriate;

19 “(II) providing, not less frequently than
20 annually, public information concerning the ag-
21 gregate results of such audits including the per-
22 centage of cases, by district, in which a mate-
23 rial misstatement of income or expenditures is
24 reported; and

1 ~~“(III) fully funding those audits, including~~
2 ~~procedures requiring each debtor with sufficient~~
3 ~~available income or assets to contribute to the~~
4 ~~payment for those audits, as an administrative~~
5 ~~expense or otherwise.~~

6 ~~“(2) The United States trustee for each district is~~
7 ~~authorized to contract with auditors to perform audits in~~
8 ~~cases designated by the United States trustee according~~
9 ~~to the procedures established under paragraph (1) of this~~
10 ~~subsection.~~

11 ~~“(3) According to procedures established under para-~~
12 ~~graph (1), upon request of a duly appointed auditor, the~~
13 ~~debtor shall cause the accounts, papers, documents, finan-~~
14 ~~cial records, files and all other papers, things, or property~~
15 ~~belonging to the debtor as the auditor requests and that~~
16 ~~are reasonably necessary to facilitate the audit to be made~~
17 ~~available for inspection and copying.~~

18 ~~“(4)(A) The report of each audit conducted under~~
19 ~~this subsection shall be filed with the court, the Attorney~~
20 ~~General, and the United States Attorney, as required~~
21 ~~under procedures established by the Attorney General~~
22 ~~under paragraph (1).~~

23 ~~“(B) If a material misstatement of income or expend-~~
24 ~~itures or of assets is reported under subparagraph (A),~~

1 a statement specifying that misstatement shall be filed
 2 with the court and the United States trustee shall—

3 “(i) give notice thereof to the creditors in the
 4 case; and

5 “(ii) in an appropriate case, in the opinion of
 6 the United States trustee, that requires investigation
 7 with respect to possible criminal violations, the
 8 United States Attorney for the district.”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall take effect 18 months after the date of
 11 enactment of this Act.

12 **SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING**
 13 **OF CREDITORS.**

14 Section 341(e) of title 11, United States Code, is
 15 amended by inserting after the first sentence the follow-
 16 ing: “Notwithstanding any local court rule, provision of
 17 a State constitution, any other Federal or State law that
 18 is not a bankruptcy law, or other requirement that rep-
 19 resentation at the meeting of creditors under subsection
 20 (a) be by an attorney, a creditor holding a consumer debt
 21 or any representative of the creditor (which may include
 22 an entity or an employee of an entity and may be a rep-
 23 resentative for more than one creditor) shall be permitted
 24 to appear at and participate in the meeting of creditors
 25 in a case under chapter 7 or 13, either alone or in conjunc-

1 tion with an attorney for the creditor. Nothing in this sub-
 2 section shall be construed to require any creditor to be
 3 represented by an attorney at any meeting of creditors.”.

4 **SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND**
 5 **13 CASES.**

6 Section 342 of title 11, United States Code, is
 7 amended—

8 (1) in subsection (c)—

9 (A) by striking “, but the failure of such
 10 notice to contain such information shall not in-
 11 validate the legal effect of such notice”; and

12 (B) by adding at the end the following:

13 “(d)(1) If the credit agreement between the debtor
 14 and the creditor or the last communication before the fil-
 15 ing of the petition in a voluntary case from the creditor
 16 to a debtor who is an individual states an account number
 17 of the debtor that is the current account number of the
 18 debtor with respect to any debt held by the creditor
 19 against the debtor, the debtor shall include that account
 20 number in any notice to the creditor required to be given
 21 under this title.

22 “(2) If the creditor has specified to the debtor, in
 23 the last communication before the filing of the petition,
 24 an address at which the creditor wishes to receive cor-
 25 respondence regarding the debtor’s account, any notice to

1 the creditor required to be given by the debtor under this
2 title shall be given at such address.

3 “(3) For purposes of this section, the term ‘notice’
4 shall include—

5 “(A) any correspondence from the debtor to the
6 creditor after the commencement of the case;

7 “(B) any statement of the debtor’s intention
8 under section 521(a)(2) of this title;

9 “(C) notice of the commencement of any pro-
10 ceeding in the case to which the creditor is a party;
11 and

12 “(D) any notice of a hearing under section
13 1324 of this title.

14 “(e)(1) At any time, a creditor, in a case of an indi-
15 vidual under chapter 7 or 13, may file with the court and
16 serve on the debtor a notice of the address to be used to
17 notify the creditor in that case.

18 “(2) If the court or the debtor is required to give
19 the creditor notice, 5 days after receipt of the notice under
20 paragraph (1), that notice shall be given at that address.

21 “(f) An entity may file with the court a notice stating
22 its address for notice in cases under chapter 7 or 13. After
23 the date that is 30 days following the filing of that notice,
24 any notice in any case filed under chapter 7 or 13 given
25 by the court shall be to that address unless specific notice

1 is given under subsection (e) with respect to a particular
2 ease.

3 “(g)(1) Notice given to a creditor other than as pro-
4 vided in this section shall not be effective notice until that
5 notice has been brought to the attention of the creditor.

6 “(2) If the creditor has designated a person or de-
7 partment to be responsible for receiving notices concerning
8 bankruptcy cases and has established reasonable proce-
9 dures so that bankruptcy notices received by the creditor
10 will be delivered to that department or person, notice shall
11 not be brought to the attention of the creditor until that
12 notice is received by that person or department.”.

13 **SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**
14 **TER 13.**

15 Section 348(f)(1) of title 11, United States Code, is
16 amended—

17 (1) in subparagraph (A), by striking “and” at
18 the end;

19 (2) in subparagraph (B)—

20 (A) by striking “in the converted case,
21 with allowed secured claims” and inserting
22 “only in a case converted to chapter 11 or 12
23 but not in a case converted to chapter 7, with
24 allowed secured claims in cases under chapters
25 11 and 12”; and

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

3 (3) by adding at the end the following:

4 “(C) with respect to cases converted from chap-
5 ter 13, the claim of any creditor holding security as
6 of the date of the petition shall continue to be se-
7 cured by that security unless the full amount of that
8 claim determined under applicable nonbankruptcy
9 law has been paid in full as of the date of conver-
10 sion, notwithstanding any valuation or determination
11 of the amount of an allowed secured claim made for
12 the purposes of the chapter 13 proceeding.”.

13 **SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
14 **CASES.**

15 Section 362(e) of title 11, United States Code, is
16 amended—

17 (1) by inserting “(1)” after “(e); and

18 (2) by adding at the end the following:

19 “(2) Notwithstanding paragraph (1), in the case of
20 an individual filing under chapter 7, 11, or 13, the stay
21 under subsection (a) shall terminate on the date that is
22 60 days after a request is made by a party in interest
23 under subsection (d), unless—

1 “(A) a final decision is rendered by the court
2 during the 60-day period beginning on the date of
3 the request; or

4 “(B) that 60-day period is extended—

5 “(i) by agreement of all parties in interest;

6 or

7 “(ii) by the court for such specific period
8 of time as the court finds is required for good
9 cause.”.

10 **SEC. 312. DISMISSAL FOR FAILURE TO FILE SCHEDULES**

11 **TIMELY OR PROVIDE REQUIRED INFORMA-**

12 **TION.**

13 Section 707 of title 11, United States Code, as
14 amended by section 102 of this Act, is further amended
15 by adding at the end the following:

16 “(c)(1) Notwithstanding subsection (a), and subject
17 to paragraph (2), if an individual debtor in a voluntary
18 case under chapter 7 or 13 fails to file all of the informa-
19 tion required under section 521(a)(1) of this title within
20 45 days after the filing of the petition commencing the
21 case, the case shall be automatically dismissed effective
22 on the 46th day after the filing of the petition.

23 “(2) With respect to a case described in paragraph
24 (1), any party in interest may request the court to enter
25 an order dismissing the case. The court shall, if so re-

1 requested; enter an order of dismissal not later than 5 days
2 after that request.

3 “(3) Upon request of the debtor made within 45 days
4 after the filing of the petition commencing a case de-
5 scribed in paragraph (1), the court may allow the debtor
6 an additional period of not to exceed 20 days to file the
7 information required under section 521(a)(1) of this title
8 if the court finds justification for extending the period for
9 the filing.”.

10 **SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEAR-**
11 **ING ON CONFIRMATION OF THE PLAN.**

12 Section 1324 of title 11, United States Code, is
13 amended—

14 (1) by striking “After” and inserting the follow-
15 ing:

16 “(a) Except as provided in subsection (b) and after”;
17 and

18 (2) by adding at the end the following:

19 “(b) If not later than 5 days after receiving notice
20 of a hearing on confirmation of the plan, a creditor objects
21 to the confirmation of the plan, the hearing on confirma-
22 tion of the plan may be held no earlier than 20 days after
23 the first meeting of creditors under section 341(a) of this
24 title.”.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS.

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

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

(2) in each paragraph, by inserting “The term” after the paragraph designation;

(3) in paragraph (35)(B), by striking “paragraphs (21B) and (33)(A)” and inserting “paragraphs (23) and (35)”;

(4) in each of paragraphs (35A) and (38), by striking “; and” at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting “who is not a family farmer” after “debtor” the first place it appears; and

(B) by striking “thereto having aggregate” and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

“(54) The term ‘transfer’ means—

“(A) the creation of a lien;

1 “(B) the retention of title as a security in-
2 terest;

3 “(C) the foreclosure of a debtor’s equity of
4 redemption; or

5 “(D) each mode, direct or indirect absolute
6 or conditional, voluntary or involuntary, of dis-
7 posing of or parting with property or with an
8 interest in property;”;

9 (7) in each of paragraphs (1) through (35), in
10 each of paragraphs (36) and (37), and in each of
11 paragraphs (40) through (55) (including paragraph
12 (54), as added by paragraph (6) of this section); by
13 striking the semicolon at the end and inserting a pe-
14 riod; and

15 (8) by redesignating paragraphs (4) through
16 (55) in entirely numerical sequence, so as to result
17 in numerical paragraph designations of (4) through
18 (68).

19 **SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.**

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

1 **SEC. 403. EXTENSION OF TIME.**

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

5 **SEC. 404. WHO MAY BE A DEBTOR.**

6 Section 109(b)(2) of title 11, United States Code, is
7 amended by striking “subsection (e) or (d) of”.

8 **SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**

9 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
10 **TITIONS.**

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

14 **SEC. 406. LIMITATION ON COMPENSATION OF PROFES-**

15 **SIONAL PERSONS.**

16 Section 328(a) of title 11, United States Code, is
17 amended by inserting “on a fixed or percentage fee basis,”
18 after “hourly basis,”.

19 **SEC. 407. SPECIAL TAX PROVISIONS.**

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

23 **SEC. 408. EFFECT OF CONVERSION.**

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

1 **SEC. 409. AUTOMATIC STAY.**

2 Section 362(b) of title 11, United States Code, is
3 amended—

4 (1) in paragraph (17), by striking “or” at the
5 end;

6 (2) in paragraph (18), by striking the period at
7 the end and inserting “; or”; and

8 (3) by adding at the end the following:

9 “(19) under subsection (a) of this section of
10 any transfer that is not avoidable under section 544
11 and that is not avoidable under section 549.”

12 **SEC. 410. EXECUTORY CONTRACTS AND UNEXPIRED**
13 **LEASES.**

14 Section 365 of title 11, United States Code, is
15 amended—

16 (1) in subsection (b)(2)—

17 (A) in subparagraph (C), by striking “or”
18 at the end; and

19 (B) by striking subparagraph (D) and in-
20 serting the following:

21 “(D) the satisfaction of any penalty rate or
22 penalty provision relating to a default arising
23 from a failure to perform nonmonetary obliga-
24 tions under an executory contract or under an
25 unexpired lease of real or personal property;

1 “(E) the satisfaction of any provision
2 (other than a penalty rate or penalty provision)
3 relating to a default arising from any failure to
4 perform nonmonetary obligations under an un-
5 expired lease of real property, if it is impossible
6 for the trustee to cure such default by perform-
7 ing nonmonetary acts at and after the time of
8 assumption; or

9 “(F) the satisfaction of any provision
10 (other than a penalty rate or penalty provision)
11 relating to a default arising from any failure to
12 perform nonmonetary obligations under an ex-
13 ecutory contract, if it is impossible for the
14 trustee to cure such default by performing non-
15 monetary acts at and after the time of assump-
16 tion and if the court determines, based on the
17 equities of the case, that paragraph (1) should
18 not apply with respect to such default.”;

19 (2) in subsection (c)—

20 (A) in paragraph (2), by adding “or” at
21 the end;

22 (B) in paragraph (3), by striking “or” at
23 the end and inserting a period; and

24 (C) by striking paragraph (4);

25 (3) in subsection (d)—

1 (A) by striking paragraphs (5) through
2 (9); and

3 (B) by redesignating paragraph (10) as
4 paragraph (5); and

5 (4) in subsection (f)(1), by striking “; except
6 that” and all that follows through the end of the
7 paragraph and inserting a period.

8 **SEC. 411. AMENDMENT TO TABLE OF SECTIONS.**

9 The table of sections for chapter 5 of title 11, United
10 States Code, is amended by striking the item relating to
11 section 556 and inserting the following:

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

12 **SEC. 412. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

16 **SEC. 413. PRIORITIES.**

17 Section 507(a) of title 11, United States Code, is
18 amended—

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

21 (2) in paragraph (7), by inserting “unsecured”
22 after “allowed”.

1 **SEC. 414. EXEMPTIONS.**

2 Section ~~522~~ of title 11, United States Code, is
3 amended—

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

5 (A) by striking “includes a liability des-
6 ignated as” and inserting “is for a liability that
7 is designated as, and is actually in the nature
8 of,”; and

9 (B) by striking “, unless” and all that fol-
10 lows through “support,”; and

11 (2) in subsection (g)(2), by striking “subsection
12 (f)(2)” and inserting “subsection (f)(1)(B)”.

13 **SEC. 415. EXCEPTIONS TO DISCHARGE.**

14 Section ~~523~~ of title 11, United States Code, is
15 amended—

16 (1) in subsection (a)(3), by striking “or (6)”
17 each place it appears and inserting “(6), or (15)”;

18 (2) as amended by section 304(e) of Public Law
19 ~~103–394~~ (108 Stat. 4133), in paragraph (15)—

20 (A) by inserting “or” after the semicolon
21 at the end; and

22 (B) by transferring such paragraph so as
23 to insert it after paragraph (14) of subsection
24 (a);

25 (3) in paragraph (9), by inserting
26 “, watercraft, or aircraft” after “motor vehicle”;

1 (4) in subsection (a)(15), as so redesignated by
 2 paragraph (2) of this subsection, by inserting “to a
 3 spouse, former spouse, or child of the debtor and”
 4 after “(15)”;

5 (5) in subsection (a)(17)—

6 (A) by striking “by a court” and inserting
 7 “on a prisoner by any court”;

8 (B) by striking “section 1915 (b) or (f)”
 9 and inserting “subsection (b) or (f)(2) of sec-
 10 tion 1915”; and

11 (C) by inserting “(or a similar non-Federal
 12 law)” after “title 28” each place it appears; and

13 (6) in subsection (c), by striking “a insured”
 14 and inserting “an insured”.

15 **SEC. 416. EFFECT OF DISCHARGE.**

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

20 **SEC. 417. PROTECTION AGAINST DISCRIMINATORY TREAT-**
 21 **MENT.**

22 Section 525(c) of title 11, United States Code, is
 23 amended—

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

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

4 **SEC. 418. PROPERTY OF THE ESTATE.**

5 Section 541(b) of title 11, United States Code, is
6 amended—

7 (1) in paragraph (4)—

8 (A) in subparagraph (B)(ii), by inserting
9 “365 or” before “542”; and

10 (B) by adding “or” at the end.

11 **SEC. 419. LIMITATIONS ON AVOIDING POWERS.**

12 Section 546 of title 11, United States Code, is
13 amended by redesignating the second subsection (g) (as
14 added by section 222(a) of the Bankruptcy Reform Act
15 of 1994; 108 Stat. 4129) as subsection (h).

16 **SEC. 420. PREFERENCES.**

17 Section 547 of title 11, United States Code, is
18 amended—

19 (1) in subsection (b), by striking “subsection
20 (e)” and inserting “subsections (e) and (i)”; and

21 (2) by adding at the end the following:

22 “(i) If the trustee avoids under subsection (b) a secu-
23 rity interest given between 90 days and 1 year before the
24 date of the filing of the petition, by the debtor to an entity
25 that is not an insider for the benefit of a creditor that

1 is an insider, such security interest shall be considered to
2 be avoided under this section only with respect to the cred-
3 itor that is an insider.”.

4 **SEC. 421. POSTPETITION TRANSACTIONS.**

5 Section 549(e) of title 11, United States Code, is
6 amended—

7 (1) by inserting “an interest in” after “transfer
8 of”;

9 (2) by striking “such property” and inserting
10 “such real property”; and

11 (3) by striking “the interest” and inserting
12 “such interest”.

13 **SEC. 422. TECHNICAL AMENDMENT.**

14 Section 552(b)(1) of title 11, United States Code, is
15 amended by striking “product” each place it appears and
16 inserting “products”.

17 **SEC. 423. SETOFF.**

18 Section 553(b)(1) of title 11, United States Code, is
19 amended by striking “362(b)(14)” and inserting
20 “362(b)(17)”.

21 **SEC. 424. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

1 **SEC. 425. GENERAL PROVISIONS.**

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

4 **SEC. 426. APPOINTMENT OF ELECTED TRUSTEE.**

5 Section 1104(b) of title 11, United States Code, is
6 amended—

7 (1) by inserting “(1)” after “(b)”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(2)(A) If an eligible, disinterested trustee is elected
11 at a meeting of creditors under paragraph (1), the United
12 States trustee shall file a report certifying that election.

13 Upon the filing of a report under the preceding sentence—

14 “(i) the trustee elected under paragraph (1)
15 shall be considered to have been selected and ap-
16 pointed for purposes of this section; and

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

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

22 **SEC. 427. ABANDONMENT OF RAILROAD LINE.**

23 Section 1170(c)(1) of title 11, United States Code,
24 is amended by striking “section 11347” and inserting
25 “section 11326(a)”.

1 **SEC. 428. CONTENTS OF PLAN.**

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

5 **SEC. 429. DISCHARGE UNDER CHAPTER 12.**

6 Subsections (a) and (c) of section 1228 of title 11,
7 United States Code, are amended by striking
8 “1222(b)(10)” each place it appears and inserting
9 “1222(b)(9)”.

10 **SEC. 430. CONTENTS OF PLAN.**

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

13 (1) in subsection (b), by striking “(c)” and in-
14 serting “(d)”; and

15 (2) in subsection (c), by striking “default,
16 shall” and inserting “default shall”.

17 **SEC. 431. DISCHARGE UNDER CHAPTER 13.**

18 Paragraphs (1) through (3) of section 1328(a) of title
19 11, United States Code, are amended to read as follows:

20 “(1) provided for under section 1322(b)(5) of
21 this title;

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

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

1 **SEC. 432. EXTENSIONS.**

2 Section 302(d)(3) of the Bankruptcy, Judges, United
3 States Trustees, and Family Farmer Bankruptcy Act of
4 1986 (28 U.S.C. 581 note) is amended—

5 (1) in subparagraph (A), in the matter follow-
6 ing clause (ii), by striking “October 1, 2002” and
7 inserting “October 1, 2012”; and

8 (2) in subparagraph (F)—

9 (A) in clause (i)—

10 (i) in subclause (II), by striking “Oc-
11 tober 1, 2002” and inserting “October 1,
12 2012”; and

13 (ii) in the matter following subclause
14 (II), by striking “October 1, 2003” and in-
15 serting “October 1, 2013”; and

16 (B) in clause (ii), in the matter following
17 subclause (II), by striking “October 1, 2003”
18 and inserting “October 1, 2013”.

19 **SEC. 433. BANKRUPTCY CASES AND PROCEEDINGS.**

20 Section 1334(d) of title 28, United States Code, is
21 amended—

22 (1) by striking “made under this subsection”
23 and inserting “made under subsection (e)”; and

24 (2) by striking “This subsection” and inserting
25 “Subsection (e) and this subsection”.

1 **SEC. 434. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
 2 **RULE.**

3 Section 156(a) of title 18, United States Code, is
 4 amended—

5 (1) in the first undesignated paragraph—

6 (A) by inserting “(1) the term” before
 7 “‘bankruptcy’; and

8 (B) by striking the period at the end and
 9 inserting “; and”; and

10 (2) in the second undesignated paragraph—

11 (A) by inserting “(2) the term” before
 12 “‘document’; and

13 (B) by striking “this title” and inserting
 14 “title 11”.

15 **SEC. 435. EFFECTIVE DATE; APPLICATION OF AMEND-**
 16 **MENTS.**

17 (a) **EFFECTIVE DATE.**—Except as provided in sub-
 18 section (b), this title and the amendments made by this
 19 title shall take effect on the date of enactment of this Act.

20 (b) **APPLICATION OF AMENDMENTS.**—The amend-
 21 ments made by this title shall apply only with respect to
 22 cases commenced under title 11, United States Code, on
 23 or after the date of enactment of this Act.

24 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

25 (a) **SHORT TITLE.**—*This Act may be cited as the*
 26 *“Consumer Bankruptcy Reform Act of 1998”.*

1 **(b) TABLE OF CONTENTS.—***The table of contents for*
 2 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

**TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR
CONSUMERS**

Sec. 201. Allowance of claims or interests.

Sec. 202. Exceptions to discharge.

Sec. 203. Effect of discharge.

Sec. 204. Automatic stay.

Sec. 205. Discharge.

Sec. 206. Discouraging predatory lending practices.

**TITLE III—IMPROVED PROCEDURES FOR EFFICIENT
ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

Sec. 301. Notice of alternatives.

Sec. 302. Fair treatment of secured creditors under chapter 13.

Sec. 303. Discouragement of bad faith repeat filings.

Sec. 304. Timely filing and confirmation of plans under chapter 13.

Sec. 305. Application of the codebtor stay only when the stay protects the debtor.

Sec. 306. Improved bankruptcy statistics.

Sec. 307. Audit procedures.

Sec. 308. Creditor representation at first meeting of creditors.

Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.

Sec. 310. Stopping abusive conversions from chapter 13.

Sec. 311. Prompt relief from stay in individual cases.

Sec. 312. Dismissal for failure to timely file schedules or provide required information.

Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.

Sec. 314. Discharge under chapter 13.

Sec. 315. Nondischargeable debts.

Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.

Sec. 317. Definition of household goods and antiques.

Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.

Sec. 319. Adequate protection of lessors and purchase money secured creditors.

Sec. 320. Limitation.

Sec. 321. Miscellaneous improvements.

Sec. 322. Bankruptcy judgeships.

Sec. 323. Preferred payment of child support in chapter 7 proceedings.

Sec. 324. Preferred payment of child support in chapter 13 proceedings.

Sec. 325. Payment of child support required to obtain a discharge in chapter 13 proceedings.

Sec. 326. Child support and alimony collection.

Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.

Sec. 328. Enforcement of child and spousal support.

Sec. 329. Dependent child defined.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Definitions.

Sec. 402. Adjustment of dollar amounts.

Sec. 403. Extension of time.

Sec. 404. Who may be a debtor.

Sec. 405. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.

Sec. 406. Limitation on compensation of professional persons.

Sec. 407. Special tax provisions.

Sec. 408. Effect of conversion.

Sec. 409. Automatic stay.

Sec. 410. Amendment to table of sections.

Sec. 411. Allowance of administrative expenses.

Sec. 412. Priorities.

Sec. 413. Exemptions.

Sec. 414. Exceptions to discharge.

Sec. 415. Effect of discharge.

Sec. 416. Protection against discriminatory treatment.

Sec. 417. Property of the estate.

Sec. 418. Limitations on avoiding powers.

Sec. 419. Preferences.

Sec. 420. Postpetition transactions.

Sec. 421. Technical amendment.

Sec. 422. Setoff.

Sec. 423. Disposition of property of the estate.

Sec. 424. General provisions.

Sec. 425. Appointment of elected trustee.

Sec. 426. Abandonment of railroad line.

Sec. 427. Contents of plan.

Sec. 428. Discharge under chapter 12.

Sec. 429. Extensions.

Sec. 430. Bankruptcy cases and proceedings.

Sec. 431. Knowing disregard of bankruptcy law or rule.

Sec. 432. Effective date; application of amendments.

1 **TITLE I—NEEDS-BASED**
2 **BANKRUPTCY**

3 **SEC. 101. CONVERSION.**

4 Section 706(c) of title 11, United States Code, is
5 amended by inserting “or consents to” after “requests”.

6 **SEC. 102. DISMISSAL OR CONVERSION.**

7 (a) *IN GENERAL.*—Section 707 of title 11, United
8 States Code, is amended—

1 *amount greater than or equal to 20 percent of unse-*
2 *cured claims that are not considered to be priority*
3 *claims (as determined under subchapter I of chapter*
4 *5); or*

5 *“(B) the debtor filed a petition for the relief in*
6 *bad faith.*

7 *“(3)(A) If a panel trustee appointed under section*
8 *586(a)(1) of title 28 brings a motion for dismissal or con-*
9 *version under this subsection and the court grants that mo-*
10 *tion and finds that the action of the counsel for the debtor*
11 *in filing under this chapter was not substantially justified,*
12 *the court shall order the counsel for the debtor to reimburse*
13 *the trustee for all reasonable costs in prosecuting the mo-*
14 *tion, including reasonable attorneys’ fees.*

15 *“(B) If the court finds that the attorney for the debtor*
16 *violated Rule 9011, at a minimum, the court shall order—*

17 *“(i) the assessment of an appropriate civil pen-*
18 *alty against the counsel for the debtor; and*

19 *“(ii) the payment of the civil penalty to the*
20 *panel trustee or the United States trustee.*

21 *“(C) In the case of a petition referred to in subpara-*
22 *graph (B), the signature of an attorney shall constitute a*
23 *certificate that the attorney has—*

24 *“(i) performed a reasonable investigation into*
25 *the circumstances that gave rise to the petition; and*

1 “(ii) determined that the petition—

2 “(I) is well grounded in fact; and

3 “(II) is warranted by existing law or a
4 good faith argument for the extension, modifica-
5 tion, or reversal of existing law and does not
6 constitute an abuse under paragraph (1) of this
7 subsection.

8 “(4)(A) Except as provided in subparagraph (B), the
9 court may award a debtor all reasonable costs in contesting
10 a motion brought by a party in interest (other than a panel
11 trustee) under this subsection (including reasonable attor-
12 neys’ fees) if—

13 “(i) the court does not grant the motion; and

14 “(ii) the court finds that—

15 “(I) the position of the party that brought
16 the motion was not substantially justified; or

17 “(II) the party brought the motion solely for
18 the purpose of coercing a debtor into waiving a
19 right guaranteed to the debtor under this title.

20 “(B) A party in interest that has a claim of an aggre-
21 gate amount less than \$1,000 shall not be subject to sub-
22 paragraph (A).

23 “(5) However, a party in interest may not bring a
24 motion under this section if the debtor and the debtor’s
25 spouse combined, as of the date of the order for relief, have

1 *current monthly total income equal to or less than the na-*
 2 *tional median household monthly income calculated on a*
 3 *monthly basis for a household of equal size. However, for*
 4 *a household of more than 4 individuals, the median income*
 5 *shall be that of a household of 4 individuals plus \$583 for*
 6 *each additional member of that household.”.*

7 **(b) CLERICAL AMENDMENT.**—*The table of sections at*
 8 *the beginning of chapter 7 of title 11, United States Code,*
 9 *is amended by striking the item relating to section 707 and*
 10 *inserting the following:*

“707. Dismissal of a case or conversion to a case under chapter 13.”.

11 **TITLE II—ENHANCED PROCE-**
 12 **DURAL PROTECTIONS FOR**
 13 **CONSUMERS**

14 **SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.**

15 *Section 502 of title 11, United States Code, is amended*
 16 *by adding at the end the following:*

17 “(k)(1) *The court may award the debtor reasonable at-*
 18 *torneys’ fees and costs if, after an objection is filed by a*
 19 *debtor, the court—*

20 “(A)(i) *disallows the claim; or*

21 “(ii) *reduces the claim by an amount greater*
 22 *than 20 percent of the amount of the initial claim*
 23 *filed by a party in interest; and*

24 “(B) *finds the position of the party filing the*
 25 *claim is not substantially justified.*

1 “(2) If the court finds that the position of a claimant
2 under this section is not substantially justified, the court
3 may, in addition to awarding a debtor reasonable attor-
4 neys’ fees and costs under paragraph (1), award such dam-
5 ages as may be required by the equities of the case.”.

6 **SEC. 202. EXCEPTIONS TO DISCHARGE.**

7 Section 523 of title 11, United States Code, is amend-
8 ed—

9 (1) in subsection (a)(2)(A), by striking “a false
10 representation” and inserting “a material false rep-
11 resentation upon which the defrauded person justifi-
12 ably relied”; and

13 (2) by striking subsection (d) and inserting the
14 following:

15 “(d)(1) Subject to paragraph (3), if a creditor requests
16 a determination of dischargeability of a consumer debt
17 under this section and that debt is discharged, the court
18 shall award the debtor reasonable attorneys’ fees and costs.

19 “(2) In addition to making an award to a debtor
20 under paragraph (1), if the court finds that the position
21 of a creditor in a proceeding covered under this section is
22 not substantially justified, the court may award reasonable
23 attorneys’ fees and costs under paragraph (1) and such
24 damages as may be required by the equities of the case.

1 “(3)(A) A creditor may not request a determination
2 of dischargeability of a consumer debt under subsection
3 (a)(2) if—

4 “(i) before the filing of the petition, the debtor
5 made a good faith effort to negotiate a reasonable al-
6 ternative repayment schedule (including making an
7 offer of a reasonable alternative repayment schedule);
8 and

9 “(ii) that creditor refused to negotiate an alter-
10 native payment schedule, and that refusal was not
11 reasonable.

12 “(B) For purposes of this paragraph, the debtor shall
13 have the burden of proof of establishing that—

14 “(i) an offer made by that debtor under subpara-
15 graph (A)(i) was reasonable; and

16 “(ii) the refusal to negotiate by the creditor in-
17 volved to was not reasonable.”.

18 **SEC. 203. EFFECT OF DISCHARGE.**

19 Section 524 of title 11, United States Code, is amended
20 by adding at the end the following:

21 “(i) The willful failure of a creditor to credit payments
22 received under a plan confirmed under this title (including
23 a plan of reorganization confirmed under chapter 11 of this
24 title) in the manner required by the plan (including credit-

1 *ing the amounts required under the plan) shall constitute*
 2 *a violation of an injunction under subsection (a)(2).*

3 “(j) *An individual who is injured by the failure of a*
 4 *creditor to comply with the requirements for a reaffirma-*
 5 *tion agreement under subsections (c) and (d), or by any*
 6 *willful violation of the injunction under subsection (a)(2),*
 7 *shall be entitled to recover—*

8 “(1) *the greater of—*

9 “(A)(i) *the amount of actual damages; mul-*
 10 *tiplied by*

11 “(i) *3; or*

12 “(B) *\$5,000; and*

13 “(2) *costs and attorneys’ fees.”.*

14 **SEC. 204. AUTOMATIC STAY.**

15 *Section 362(h) of title 11, United States Code, is*
 16 *amended to read as follows:*

17 “(h)(1) *An individual who is injured by any willful*
 18 *violation of a stay provided in this section shall be entitled*
 19 *to recover—*

20 “(A) *actual damages; and*

21 “(B) *reasonable costs, including attorneys’ fees.*

22 “(2) *In addition to recovering actual damages, costs,*
 23 *and attorneys’ fees under paragraph (1), an individual de-*
 24 *scribed in paragraph (1) may recover punitive damages in*
 25 *appropriate circumstances.”.*

1 **SEC. 205. DISCHARGE.**

2 *Section 727 of title 11, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (c), by adding at the end the*
5 *following:*

6 *“(3)(A) A creditor may not request a determination*
7 *of dischargeability of a consumer debt under subsection (a)*
8 *if—*

9 *“(i) before the filing of the petition, the debtor*
10 *made a good faith effort to negotiate a reasonable al-*
11 *ternative repayment schedule (including making an*
12 *offer of a reasonable alternative repayment schedule);*
13 *and*

14 *“(ii) that creditor refused to negotiate an alter-*
15 *native payment schedule, and that refusal was not*
16 *reasonable.*

17 *“(B) For purposes of this paragraph, the debtor shall*
18 *have the burden of proof of establishing that—*

19 *“(i) an offer made by that debtor under subpara-*
20 *graph (A)(i) was reasonable; and*

21 *“(ii) the refusal to negotiate by the creditor in-*
22 *volved to was not reasonable.”; and*

23 *(2) by adding at the end the following:*

24 *“(f)(1) The court may award the debtor reasonable at-*
25 *torneys’ fees and costs in any case in which a creditor files*

1 *a motion to deny relief to a debtor under this section and*
2 *that motion—*

3 “(A) *is denied; or*

4 “(B) *is withdrawn after the debtor has replied.*

5 “(2) *If the court finds that the position of a party fil-*
6 *ing a motion under this section is not substantially justi-*
7 *fied, the court may assess against the creditor such damages*
8 *as may be required by the equities of the case.”.*

9 **SEC. 206. DISCOURAGING PREDATORY LENDING PRAC-**
10 **TICES.**

11 *Section 502(b) of title 11, United States Code, is*
12 *amended—*

13 (1) *in paragraph (8), by striking “or” at the*
14 *end;*

15 (2) *in paragraph (9), by striking the period at*
16 *the end and inserting “; or”; and*

17 (3) *by adding at the end the following:*

18 “(10) *the claim is based on a secured debt if the*
19 *creditor has failed to comply with the requirements of*
20 *subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of*
21 *section 129 of the Truth in Lending Act (15 U.S.C.*
22 *1639).”.*

1 **TITLE III—IMPROVED PROCE-**
2 **DURES FOR EFFICIENT AD-**
3 **MINISTRATION OF THE BANK-**
4 **RUPTCY SYSTEM**

5 **SEC. 301. NOTICE OF ALTERNATIVES.**

6 (a) *IN GENERAL.*—Section 342 of title 11, United
7 States Code, is amended by striking subsection (b) and in-
8 serting the following:

9 “(b) Before the commencement of a case under this title
10 by an individual whose debts are primarily consumer debts,
11 that individual shall be given or obtain (as required in sec-
12 tion 521(a)(1), as part of the certification process under
13 subchapter 1 of chapter 5) a written notice prescribed by
14 the United States trustee for the district in which the peti-
15 tion is filed pursuant to section 586 of title 28. The notice
16 shall contain the following:

17 “(1) A brief description of chapters 7, 11, 12,
18 and 13 and the general purpose, benefits, and costs of
19 proceeding under each of those chapters.

20 “(2) A brief description of services that may be
21 available to that individual from an independent
22 nonprofit debt counseling service.

23 “(3)(A) The name, address, and telephone num-
24 ber of each nonprofit debt counseling service with an

1 *office located in the district in which the petition is*
2 *filed, if any.*

3 “(B) *Any nonprofit debt counseling service de-*
4 *scribed in subparagraph (A) that has registered with*
5 *the clerk of the bankruptcy court on or before Decem-*
6 *ber 10 of the preceding year shall be included in the*
7 *list referred to in that clause, unless the chief bank-*
8 *ruptcy judge of the district involved, after giving no-*
9 *tice to the debt counseling service and the United*
10 *States trustee and opportunity for a hearing, orders,*
11 *for good cause, that a particular debt counseling serv-*
12 *ice shall not be so listed.”.*

13 (b) *DEBTOR’S DUTIES.*—Section 521 of title 11,
14 *United States Code, is amended—*

15 (1) *by inserting “(a)” before “The debtor*
16 *shall—”;*

17 (2) *by striking paragraph (1) and inserting the*
18 *following:*

19 “(1) *file—*

20 “(A) *a list of creditors; and*

21 “(B) *unless the court orders otherwise—*

22 “(i) *a schedule of assets and liabilities;*

23 “(ii) *a schedule of current income and*
24 *current expenditures;*

1 “(iii) a statement of the debtor’s finan-
2 cial affairs and, if applicable, a certifi-
3 cate—

4 “(I) of an attorney whose name is
5 on the petition as the attorney for the
6 debtor or any bankruptcy petition pre-
7 parer signing the petition pursuant to
8 section 110(b)(1) indicating that such
9 attorney or bankruptcy petition pre-
10 parer delivered to the debtor any notice
11 required by section 342(b); or

12 “(II) if no attorney for the debtor
13 is indicated and no bankruptcy peti-
14 tion preparer signed the petition, of the
15 debtor that such notice was obtained
16 and read by the debtor;

17 “(iv) copies of any Federal tax returns,
18 including any schedules or attachments,
19 filed by the debtor for the 3-year period pre-
20 ceding the order for relief;

21 “(v) copies of all payment advices or
22 other evidence of payment, if any, received
23 by the debtor from any employer of the
24 debtor in the period 60 days prior to the fil-
25 ing of the petition;

1 “(vi) a statement of the amount of pro-
2 jected monthly net income, itemized to show
3 how calculated; and

4 “(vii) a statement disclosing any rea-
5 sonably anticipated increase in income or
6 expenditures over the 12-month period fol-
7 lowing the date of filing;” and

8 (3) by adding at the end the following:

9 “(b)(1) At any time, a creditor, in the case of an indi-
10 vidual under chapter 7 or 13, may file with the court notice
11 that the creditor requests the petition, schedules, and a
12 statement of affairs filed by the debtor in the case and the
13 court shall make those documents available to the creditor
14 who requests those documents.

15 “(2) At any time, a creditor, in a case under chapter
16 13, may file with the court notice that the creditor requests
17 the plan filed by the debtor in the case and the court shall
18 make that plan available to the creditor who requests that
19 plan.

20 “(c) An individual debtor in a case under chapter 7
21 or 13 shall file with the court—

22 “(1) at the time filed with the taxing authority,
23 all tax returns, including any schedules or attach-
24 ments, with respect to the period from the commence-
25 ment of the case until such time as the case is closed;

1 “(2) at the time filed with the taxing authority,
2 all tax returns, including any schedules or attach-
3 ments, that were not filed with the taxing authority
4 when the schedules under subsection (a)(1) were filed
5 with respect to the period that is 3 years before the
6 order for relief;

7 “(3) any amendments to any of the tax returns,
8 including schedules or attachments, described in para-
9 graph (1) or (2); and

10 “(4) in a case under chapter 13, a statement
11 subject to the penalties of perjury by the debtor of the
12 debtor’s income and expenditures in the preceding tax
13 year and monthly income, that shows how the
14 amounts are calculated—

15 “(A) beginning on the date that is the later
16 of 90 days after the close of the debtor’s tax year
17 or 1 year after the order for relief, unless a plan
18 has been confirmed; and

19 “(B) thereafter, on or before the date that is
20 45 days before each anniversary of the confirma-
21 tion of the plan until the case is closed.

22 “(d)(1) A statement referred to in subsection (c)(4)
23 shall disclose—

24 “(A) the amount and sources of income of the
25 debtor;

1 “(B) the identity of any persons responsible with
2 the debtor for the support of any dependents of the
3 debtor; and

4 “(C) the identity of any persons who contributed,
5 and the amount contributed, to the household in
6 which the debtor resides.

7 “(2) The tax returns, amendments, and statement of
8 income and expenditures described in paragraph (1) shall
9 be available to the United States trustee, any bankruptcy
10 administrator, any trustee, and any party in interest for
11 inspection and copying, subject to the requirements of sub-
12 section (e).

13 “(e)(1) Not later than 30 days after the date of enact-
14 ment of the Consumer Bankruptcy Reform Act of 1998, the
15 Director of the Administrative Office of the United States
16 Courts shall establish procedures for safeguarding the con-
17 fidentiality of any tax information required to be provided
18 under this section.

19 “(2) The procedures under paragraph (1) shall include
20 restrictions on creditor access to tax information that is re-
21 quired to be provided under this section.

22 “(3) Not later than 1 year after the date of enactment
23 of the Consumer Bankruptcy Reform Act of 1998, the Direc-
24 tor of the Administrative Office of the United States Courts
25 shall prepare, and submit to Congress a report that—

1 “(A) assesses the effectiveness of the procedures
2 under paragraph (1); and

3 “(B) if appropriate, includes proposed legisla-
4 tion—

5 “(i) to further protect the confidentiality of
6 tax information; and

7 “(ii) to provide penalties for the improper
8 use by any person of the tax information re-
9 quired to be provided under this section.”.

10 (c) *TITLE 28.—Section 586(a) of title 28, United*
11 *States Code, is amended—*

12 (1) in paragraph (5), by striking “and” at the
13 end;

14 (2) in paragraph (6), by striking the period at
15 the end and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(7) on or before January 1 of each calendar
18 year, and also not later than 30 days after any
19 change in the nonprofit debt counseling services reg-
20 istered with the bankruptcy court, prescribe and make
21 available on request the notice described in section
22 342(b)(3) of title 11 for each district included in the
23 region.”.

1 **SEC. 302. FAIR TREATMENT OF SECURED CREDITORS**
2 **UNDER CHAPTER 13.**

3 (a) *RESTORING THE FOUNDATION FOR SECURED*
4 *CREDIT.*—Section 1325(a) of title 11, United States Code,
5 *is amended—*

6 (1) *in paragraph (5), by striking the matter pre-*
7 *ceding subparagraph (A) and inserting the following:*

8 “(5) *with respect to an allowed claim provided*
9 *for by the plan that is secured under applicable non-*
10 *bankruptcy law by reason of a lien on property in*
11 *which the estate has an interest or is subject to a*
12 *setoff under section 553—”;* and

13 (2) *by adding at the end of the subsection the fol-*
14 *lowing flush sentence:*

15 “*For purposes of paragraph (5), section 506 shall not apply*
16 *to a claim described in that paragraph.*”.

17 (b) *PAYMENT OF HOLDERS OF CLAIMS SECURED BY*
18 *LIENS.*—Section 1325(a)(5)(B)(i) of title 11, United States
19 *Code, is amended to read as follows:*

20 “(B)(i) *the plan provides that the holder of*
21 *such claim retain the lien securing such claim*
22 *until the debt that is the subject of the claim is*
23 *fully paid for, as provided under the plan; and*”.

24 (c) *DETERMINATION OF SECURED STATUS.*—Section
25 *506 of title 11, United States Code, is amended by adding*
26 *at the end the following:*

1 “(e) Subsection (a) shall not apply to an allowed claim
 2 to the extent attributable in whole or in part to the purchase
 3 price of personal property acquired by the debtor during
 4 the 90-day period preceding the date of filing of the peti-
 5 tion.”.

6 **SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FIL-**
 7 **INGS.**

8 Section 362(c) of title 11, United States Code, is
 9 amended—

10 (1) by inserting “(1)” before “Except as”;

11 (2) by striking “(1) the stay” and inserting “(A)
 12 the stay”;

13 (3) by striking “(2) the stay” and inserting “(B)
 14 the stay”;

15 (4) by striking “(A) the time” and inserting “(i)
 16 the time”;

17 (5) by striking “(B) the time” and inserting
 18 “(ii) the time”; and

19 (6) by adding at the end the following:

20 “(2) Except as provided in subsections (d) through (f),
 21 the stay under subsection (a) with respect to any action
 22 taken with respect to a debt or property securing such debt
 23 or with respect to any lease shall terminate with respect
 24 to the debtor on the 30th day after the filing of the later
 25 case if—

1 “(A) a single or joint case is filed by or against
2 an individual debtor under chapter 7, 11, or 13; and

3 “(B) a single or joint case of that debtor (other
4 than a case refiled under a chapter other than chapter
5 7 after dismissal under section 707(b)) was pending
6 during the preceding year but was dismissed.

7 “(3) If a party in interest so requests, the court may
8 extend the stay in a particular case with respect to 1 or
9 more creditors (subject to such conditions or limitations as
10 the court may impose) after providing notice and a hearing
11 completed before the expiration of the 30-day period de-
12 scribed in paragraph (2) only if the party in interest dem-
13 onstrates that the filing of the later case is in good faith
14 with respect to the creditors to be stayed.

15 “(4) A case shall be presumed to have not been filed
16 in good faith (except that such presumption may be rebutted
17 by clear and convincing evidence to the contrary)—

18 “(A) with respect to the creditors involved, if—

19 “(i) more than 1 previous case under any
20 of chapters 7, 11, or 13 in which the individual
21 was a debtor was pending during the 1-year pe-
22 riod described in paragraph (1);

23 “(ii) a previous case under any of chapters
24 7, 11, or 13 in which the individual was a debt-

1 or was dismissed within the period specified in
2 paragraph (2) after—

3 “(I) the debtor, after having received
4 from the court a request to do so, failed to
5 file or amend the petition or other docu-
6 ments as required by this title; or

7 “(II) the debtor, without substantial
8 excuse, failed to perform the terms of a plan
9 that was confirmed by the court; or

10 “(iii)(I) during the period commencing
11 with the dismissal of the next most previous case
12 under chapter 7, 11, or 13 there has not been a
13 substantial change in the financial or personal
14 affairs of the debtor;

15 “(II) if the case is a chapter 7 case, there
16 is no other reason to conclude that the later case
17 will be concluded with a discharge; or

18 “(III) if the case is a chapter 11 or 13 case,
19 there is not a confirmed plan that will be fully
20 performed; and

21 “(B) with respect to any creditor that com-
22 menced an action under subsection (d) in a previous
23 case in which the individual was a debtor, if, as of
24 the date of dismissal of that case, that action was still
25 pending or had been resolved by terminating, condi-

1 *tioning, or limiting the stay with respect to actions*
2 *of that creditor.*

3 *“(5)(A) If a request is made for relief from the stay*
4 *under subsection (a) with respect to real or personal prop-*
5 *erty of any kind, and the request is granted in whole or*
6 *in part, the court may, in addition to making any other*
7 *order under this subsection, order that the relief so granted*
8 *shall be in rem either—*

9 *“(i) for a definite period of not less than 1 year;*
10 *or*

11 *“(ii) indefinitely.*

12 *“(B)(i) After an order is issued under subparagraph*
13 *(A), the stay under subsection (a) shall not apply to any*
14 *property subject to such an in rem order in any case of*
15 *the debtor.*

16 *“(ii) If an in rem order issued under subparagraph*
17 *(A) so provides, the stay shall, in addition to being inap-*
18 *plicable to the debtor involved, not apply with respect to*
19 *an entity under this title if—*

20 *“(I) the entity had reason to know of the order*
21 *at the time that the entity obtained an interest in the*
22 *property affected; or*

23 *“(II) the entity was notified of the commence-*
24 *ment of the proceeding for relief from the stay, and*

1 (1) by inserting “(1)” after “(b)”; and

2 (2) by adding at the end the following:

3 “(2)(A) Notwithstanding subsection (c) and except as
4 provided in subparagraph (B), in any case in which the
5 debtor did not receive the consideration for the claim held
6 by a creditor, the stay provided by subsection (a) shall
7 apply to that creditor for a period not to exceed 30 days
8 beginning on the date of the order for relief, to the extent
9 the creditor proceeds against—

10 “(i) the individual that received that consider-
11 ation; or

12 “(ii) property not in the possession of the debtor
13 that secures that claim.

14 “(B) Notwithstanding subparagraph (A), the stay pro-
15 vided by subsection (a) shall apply in any case in which
16 the debtor is primarily obligated to pay the creditor in
17 whole or in part with respect to a claim described in sub-
18 paragraph (A) under a legally binding separation or prop-
19 erty settlement agreement or divorce or dissolution decree
20 with respect to—

21 “(i) an individual described in subparagraph
22 (A)(i); or

23 “(ii) property described in subparagraph (A)(ii).

24 “(3) Notwithstanding subsection (c), the stay provided
25 by subsection (a) shall terminate as of the date of confirma-

1 *tion of the plan, in any case in which the plan of the debtor*
 2 *provides that the debtor's interest in personal property sub-*
 3 *ject to a lease with respect to which the debtor is the lessee*
 4 *will be surrendered or abandoned or no payments will be*
 5 *made under the plan on account of the debtor's obligations*
 6 *under the lease.”.*

7 **SEC. 306. IMPROVED BANKRUPTCY STATISTICS.**

8 *(a) AMENDMENT.—Chapter 6 of part I of title 28,*
 9 *United States Code, is amended by adding at the end the*
 10 *following:*

11 **“§ 159. Bankruptcy statistics**

12 *“(a) The clerk of each district shall compile statistics*
 13 *regarding individual debtors with primarily consumer*
 14 *debts seeking relief under chapters 7, 11, and 13 of title*
 15 *11. Those statistics shall be in a form prescribed by the Di-*
 16 *rector of the Administrative Office of the United States*
 17 *Courts (referred to in this section as the ‘Office’).*

18 *“(b) The Director shall—*

19 *“(1) compile the statistics referred to in sub-*
 20 *section (a);*

21 *“(2) make the statistics available to the public;*
 22 *and*

23 *“(3) not later than October 31, 1998, and annu-*
 24 *ally thereafter, prepare, and submit to Congress a re-*
 25 *port concerning the information collected under sub-*

1 *section (a) that contains an analysis of the informa-*
2 *tion.*

3 *“(c) The compilation required under subsection (b)*
4 *shall—*

5 *“(1) be itemized, by chapter, with respect to title*
6 *11;*

7 *“(2) be presented in the aggregate and for each*
8 *district; and*

9 *“(3) include information concerning—*

10 *“(A) the total assets and total liabilities of*
11 *the debtors described in subsection (a), and in*
12 *each category of assets and liabilities, as re-*
13 *ported in the schedules prescribed pursuant to*
14 *section 2075 of this title and filed by those debt-*
15 *ors;*

16 *“(B) the current total monthly income, pro-*
17 *jected monthly net income, and average income*
18 *and average expenses of those debtors as reported*
19 *on the schedules and statements that each such*
20 *debtor files under sections 111, 521, and 1322 of*
21 *title 11;*

22 *“(C) the aggregate amount of debt dis-*
23 *charged in the reporting period, determined as*
24 *the difference between the total amount of debt*
25 *and obligations of a debtor reported on the sched-*

1 *ules and the amount of such debt reported in cat-*
2 *egories which are predominantly nondischarge-*
3 *able;*

4 *“(D) the average period of time between the*
5 *filing of the petition and the closing of the case;*

6 *“(E) for the reporting period—*

7 *“(i) the number of cases in which a re-*
8 *affirmation was filed; and*

9 *“(ii)(I) the total number of reaffirma-*
10 *tions filed;*

11 *“(II) of those cases in which a reaffir-*
12 *mation was filed, the number in which the*
13 *debtor was not represented by an attorney;*
14 *and*

15 *“(III) of those cases, the number of*
16 *cases in which the reaffirmation was ap-*
17 *proved by the court;*

18 *“(F) with respect to cases filed under chap-*
19 *ter 13 of title 11, for the reporting period—*

20 *“(i)(I) the number of cases in which a*
21 *final order was entered determining the*
22 *value of property securing a claim in an*
23 *amount less than the amount of the claim;*
24 *and*

1 “(II) the number of final orders deter-
 2 mining the value of property securing a
 3 claim issued;

4 “(ii) the number of cases dismissed for
 5 failure to make payments under the plan;
 6 and

7 “(iii) the number of cases in which the
 8 debtor filed another case within the 6 years
 9 previous to the filing; and

10 “(G) the extent of creditor misconduct and
 11 any amount of punitive damages awarded by the
 12 court for creditor misconduct.”.

13 (b) *CLERICAL AMENDMENT.*—The table of sections at
 14 the beginning of chapter 6 of title 28, United States Code,
 15 is amended by adding at the end the following:

 “159. Bankruptcy statistics.”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall take effect 18 months after the date of enact-
 18 ment of this Act.

19 **SEC. 307. AUDIT PROCEDURES.**

20 (a) *AMENDMENTS.*—Section 586 of title 28, United
 21 States Code, is amended—

22 (1) in subsection (a), as amended by section 301
 23 of this Act, by striking paragraph (6) and inserting
 24 the following:

1 “(6) make such reports as the Attorney General
2 directs, including the results of audits performed
3 under subsection (f); and”;

4 (2) by adding at the end the following:

5 “(f)(1)(A) The Attorney General shall establish proce-
6 dures for the auditing of the accuracy and completeness of
7 petitions, schedules, and other information which the debtor
8 is required to provide under sections 521 and 1322 of title
9 11, and, if applicable, section 111 of title 11, in individual
10 cases filed under chapter 7 or 13 of such title.

11 “(B) The audits described in subparagraph (A) shall
12 be made in accordance with generally accepted auditing
13 standards and performed by independent certified public
14 accountants or independent licensed public accountants.
15 Those procedures shall—

16 “(i) establish a method of selecting appropriate
17 qualified persons to contract with the United States
18 trustee to perform those audits;

19 “(ii) establish a method of randomly selecting
20 cases to be audited according to generally accepted
21 auditing standards, except that not less than 1 out of
22 every 500 cases in each Federal judicial district shall
23 be selected for audit;

24 “(iii) require audits for schedules of income and
25 expenses which reflect greater than average variances

1 *from the statistical norm of the district in which the*
2 *schedules were filed; and*

3 *“(iv) establish procedures for—*

4 *“(I) reporting the results of those audits*
5 *and any material misstatement of income, ex-*
6 *penditures, or assets of a debtor to the Attorney*
7 *General, the United States Attorney and the*
8 *court, as appropriate;*

9 *“(II) providing, not less frequently than an-*
10 *nually, public information concerning the aggre-*
11 *gate results of such audits including the percent-*
12 *age of cases, by district, in which a material*
13 *misstatement of income or expenditures is re-*
14 *ported; and*

15 *“(III) fully funding those audits, including*
16 *procedures requiring each debtor with sufficient*
17 *available income or assets to contribute to the*
18 *payment for those audits, as an administrative*
19 *expense or otherwise.*

20 *“(2) The United States trustee for each district is au-*
21 *thorized to contract with auditors to perform audits in cases*
22 *designated by the United States trustee according to the*
23 *procedures established under paragraph (1).*

24 *“(3) According to procedures established under para-*
25 *graph (1), upon request of a duly appointed auditor, the*

1 debtor shall cause the accounts, papers, documents, finan-
2 cial records, files and all other papers, things, or property
3 belonging to the debtor as the auditor requests and that are
4 reasonably necessary to facilitate the audit to be made
5 available for inspection and copying.

6 “(4)(A) The report of each audit conducted under this
7 subsection shall be filed with the court, the Attorney Gen-
8 eral, and the United States Attorney, as required under
9 procedures established by the Attorney General under para-
10 graph (1).

11 “(B) If a material misstatement of income or expendi-
12 tures or of assets is reported under subparagraph (A), a
13 statement specifying that misstatement shall be filed with
14 the court and the United States trustee shall—

15 “(i) give notice thereof to the creditors in the
16 case; and

17 “(ii) in an appropriate case, in the opinion of
18 the United States trustee, that requires investigation
19 with respect to possible criminal violations, the
20 United States Attorney for the district.”.

21 (b) *EFFECTIVE DATE.*—The amendments made by this
22 section shall take effect 18 months after the date of enact-
23 ment of this Act.

1 **SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING**
2 **OF CREDITORS.**

3 *Section 341(c) of title 11, United States Code, is*
4 *amended by inserting after the first sentence the following:*
5 *“Notwithstanding any local court rule, provision of a State*
6 *constitution, any other Federal or State law that is not a*
7 *bankruptcy law, or other requirement that representation*
8 *at the meeting of creditors under subsection (a) be by an*
9 *attorney, a creditor holding a consumer debt or any rep-*
10 *resentative of the creditor (which may include an entity or*
11 *an employee of an entity and may be a representative for*
12 *more than one creditor) shall be permitted to appear at and*
13 *participate in the meeting of creditors in a case under chap-*
14 *ter 7 or 13, either alone or in conjunction with an attorney*
15 *for the creditor. Nothing in this subsection shall be con-*
16 *strued to require any creditor to be represented by an attor-*
17 *ney at any meeting of creditors.”.*

18 **SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND**
19 **13 CASES.**

20 *Section 342 of title 11, United States Code, is amend-*
21 *ed—*

22 *(1) in subsection (c), by striking “, but the fail-*
23 *ure of such notice to contain such information shall*
24 *not invalidate the legal effect of such notice”; and*

25 *(2) by adding at the end the following:*

1 “(d)(1) *If the credit agreement between the debtor and*
2 *the creditor or the last communication before the filing of*
3 *the petition in a voluntary case from the creditor to a debtor*
4 *who is an individual states an account number of the debtor*
5 *that is the current account number of the debtor with re-*
6 *spect to any debt held by the creditor against the debtor,*
7 *the debtor shall include that account number in any notice*
8 *to the creditor required to be given under this title.*

9 “(2) *If the creditor has specified to the debtor, in the*
10 *last communication before the filing of the petition, an ad-*
11 *dress at which the creditor wishes to receive correspondence*
12 *regarding the debtor’s account, any notice to the creditor*
13 *required to be given by the debtor under this title shall be*
14 *given at such address.*

15 “(3) *For purposes of this section, the term ‘notice’ shall*
16 *include—*

17 “(A) *any correspondence from the debtor to the*
18 *creditor after the commencement of the case;*

19 “(B) *any statement of the debtor’s intention*
20 *under section 521(a)(2);*

21 “(C) *notice of the commencement of any proceed-*
22 *ing in the case to which the creditor is a party; and*

23 “(D) *any notice of a hearing under section 1324.*

24 “(e)(1) *At any time, a creditor, in a case of an indi-*
25 *vidual under chapter 7 or 13, may file with the court and*

1 *serve on the debtor a notice of the address to be used to*
2 *notify the creditor in that case.*

3 “(2) *If the court or the debtor is required to give the*
4 *creditor notice, not later than 5 days after receipt of the*
5 *notice under paragraph (1), that notice shall be given at*
6 *that address.*

7 “(f) *An entity may file with the court a notice stating*
8 *its address for notice in cases under chapter 7 or 13. After*
9 *the date that is 30 days following the filing of that notice,*
10 *any notice in any case filed under chapter 7 or 13 given*
11 *by the court shall be to that address unless specific notice*
12 *is given under subsection (e) with respect to a particular*
13 *case.*

14 “(g)(1) *Notice given to a creditor other than as pro-*
15 *vided in this section shall not be effective notice until that*
16 *notice has been brought to the attention of the creditor.*

17 “(2) *If the creditor has designated a person or depart-*
18 *ment to be responsible for receiving notices concerning*
19 *bankruptcy cases and has established reasonable procedures*
20 *so that bankruptcy notices received by the creditor will be*
21 *delivered to that department or person, notice shall not be*
22 *brought to the attention of the creditor until that notice is*
23 *received by that person or department.”.*

1 **SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**

2 **TER 13.**

3 *Section 348(f)(1) of title 11, United States Code, is*
4 *amended—*

5 *(1) in subparagraph (A), by striking “and” at*
6 *the end;*

7 *(2) in subparagraph (B)—*

8 *(A) by striking “in the converted case, with*
9 *allowed secured claims” and inserting “only in*
10 *a case converted to chapter 11 or 12 but not in*
11 *a case converted to chapter 7, with allowed se-*
12 *cured claims in cases under chapters 11 and*
13 *12”; and*

14 *(B) by striking the period and inserting “;*
15 *and”; and*

16 *(3) by adding at the end the following:*

17 *“(C) with respect to cases converted from chapter*
18 *13, the claim of any creditor holding security as of*
19 *the date of the petition shall continue to be secured*
20 *by that security unless the full amount of that claim*
21 *determined under applicable nonbankruptcy law has*
22 *been paid in full as of the date of conversion, notwith-*
23 *standing any valuation or determination of the*
24 *amount of an allowed secured claim made for the*
25 *purposes of the chapter 13 proceeding.”.*

1 **SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
2 **CASES.**

3 *Section 362(e) of title 11, United States Code, is*
4 *amended—*

5 *(1) by inserting “(1)” after “(e)”; and*

6 *(2) by adding at the end the following:*

7 *“(2) Notwithstanding paragraph (1), in the case of an*
8 *individual filing under chapter 7, 11, or 13, the stay under*
9 *subsection (a) shall terminate on the date that is 60 days*
10 *after a request is made by a party in interest under sub-*
11 *section (d), unless—*

12 *“(A) a final decision is rendered by the court*
13 *during the 60-day period beginning on the date of the*
14 *request; or*

15 *“(B) that 60-day period is extended—*

16 *“(i) by agreement of all parties in interest;*

17 *or*

18 *“(ii) by the court for such specific period of*
19 *time as the court finds is required for good*
20 *cause.”.*

21 **SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
22 **ULES OR PROVIDE REQUIRED INFORMATION.**

23 *Section 707 of title 11, United States Code, as amend-*
24 *ed by section 102 of this Act, is amended by adding at the*
25 *end the following:*

1 “(c)(1) Notwithstanding subsection (a), and subject to
2 paragraph (2), if an individual debtor in a voluntary case
3 under chapter 7 or 13 fails to file all of the information
4 required under section 521(a)(1) within 45 days after the
5 filing of the petition commencing the case, the case shall
6 be automatically dismissed effective on the 46th day after
7 the filing of the petition.

8 “(2) With respect to a case described in paragraph (1),
9 any party in interest may request the court to enter an
10 order dismissing the case. The court shall, if so requested,
11 enter an order of dismissal not later than 5 days after that
12 request.

13 “(3) Upon request of the debtor made within 45 days
14 after the filing of the petition commencing a case described
15 in paragraph (1), the court may allow the debtor an addi-
16 tional period of not to exceed 20 days to file the information
17 required under section 521(a)(1) if the court finds justifica-
18 tion for extending the period for the filing.”.

19 **SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEAR-**
20 **ING ON CONFIRMATION OF THE PLAN.**

21 Section 1324 of title 11, United States Code, as amend-
22 ed by section 304 of this Act, is amended—

23 (1) by striking “After” and inserting the follow-
24 ing:

1 “(a) *Except as provided in subsection (b) and after*”;

2 *and*

3 (2) *by adding at the end the following:*

4 “(b) *If not later than 5 days after receiving notice of*
5 *a hearing on confirmation of the plan, a creditor objects*
6 *to the confirmation of the plan, the hearing on confirmation*
7 *of the plan may be held no earlier than 20 days after the*
8 *first meeting of creditors under section 341(a).*”.

9 **SEC. 314. DISCHARGE UNDER CHAPTER 13.**

10 *Section 1328(a) of title 11, United States Code, is*
11 *amended by striking paragraphs (1) through (3) and insert-*
12 *ing the following:*

13 “(1) *provided for under section 1322(b)(5);*

14 “(2) *of the kind specified in paragraph (2), (4),*
15 *(5), (8), or (9) of section 523(a);*

16 “(3) *for restitution, or a criminal fine, included*
17 *in a sentence on the debtor’s conviction of a crime; or*

18 “(4) *for restitution, or damages, awarded in a*
19 *civil action against the debtor as a result of willful*
20 *or malicious injury by the debtor that caused per-*
21 *sonal injury to an individual or the death of an indi-*
22 *vidual.*”.

23 **SEC. 315. NONDISCHARGEABLE DEBTS.**

24 *Section 523(a) of title 11, United States Code, is*
25 *amended by inserting after paragraph (14) the following:*

1 “(14A) incurred to pay a debt that is non-
 2 dischargeable by reason of section 727, 1141, 1228 (a)
 3 or (b), or 1328(b), or any other provision of this sub-
 4 section, except for any debt incurred to pay such a
 5 nondischargeable debt in any case in which—

6 “(A)(i) the debtor who paid the non-
 7 dischargeable debt is a single parent who has 1
 8 or more dependent children at the time of the
 9 order for relief; or

10 “(ii) there is an allowed claim for alimony
 11 to, maintenance for, or support of a spouse,
 12 former spouse, or child of the debtor payable
 13 under a judicial or administrative order to that
 14 spouse or child (but not to any other person)
 15 that was unpaid by the debtor as of the date of
 16 the petition; and

17 “(B) the creditor is unable to demonstrate
 18 that the debtor intentionally incurred the debt to
 19 pay the nondischargeable debt;”.

20 **SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANK-**
 21 **RUPTCY PRESUMED NONDISCHARGEABLE.**

22 Section 523(a)(2) of title 11, United States Code, as
 23 amended by section 202 of this Act, is amended—

24 (1) in subparagraph (A), by striking the semi-
 25 colon at the end and inserting the following: “(and,

1 *for purposes of this subparagraph, consumer debts*
 2 *owed in an aggregate amount greater than or equal*
 3 *to \$400 incurred for goods or services not reasonably*
 4 *necessary for the maintenance or support of the debtor*
 5 *or a dependent child of the debtor to a single creditor*
 6 *that are incurred during the 90-day period preceding*
 7 *the date of the order for relief shall be presumed to*
 8 *be nondischargeable under this subparagraph); or”;*

9 *(2) in subparagraph (B), by striking “or” at the*
 10 *end; and*

11 *(3) by striking subparagraph (C).*

12 **SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND AN-**
 13 **TIQUES.**

14 *Section 101 of title 11, United States Code, is amended*
 15 *by inserting after paragraph (27) the following:*

16 *“(27A) ‘household goods’ has the meaning given*
 17 *that term in section 444.1(i) of title 16, of the Code*
 18 *of Federal Regulations (as in effect on the effective*
 19 *date of this paragraph), which is part of the regula-*
 20 *tions issued by the Federal Trade Commission that*
 21 *are commonly known as the ‘Trade Regulation Rule*
 22 *on Credit Practices’, except that the term shall also*
 23 *include any tangible personal property reasonably*
 24 *necessary for the maintenance or support of a depend-*
 25 *ent child;”.*

1 **SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES**
2 **NOT COMPLETE INTENDED SURRENDER OF**
3 **CONSUMER DEBT COLLATERAL.**

4 *(a) AUTOMATIC STAY.—Section 362 of title 11, United*
5 *States Code, as amended by section 303, is amended—*

6 *(1) in subsection (c)(1), in the matter preceding*
7 *subparagraph (A), by striking “(e) and (f)” and in-*
8 *serting “(e), (f), and (h)”;*

9 *(2) by redesignating subsection (h) as subsection*
10 *(i); and*

11 *(3) by inserting after subsection (g) the follow-*
12 *ing:*

13 *“(h) In an individual case under chapter 7, 11, or 13*
14 *the stay provided by subsection (a) is terminated with re-*
15 *spect to property of the estate securing in whole or in part*
16 *a claim that is in an amount greater than \$3,000, or subject*
17 *to an unexpired lease with a remaining term of at least*
18 *1 year (in any case in which the debtor owes at least \$3,000*
19 *for a 1-year period), if within 30 days after the expiration*
20 *of the applicable period under section 521(a)(2)—*

21 *“(1)(A) the debtor fails to timely file a statement*
22 *of intention to surrender or retain the property; or*

23 *“(B) if the debtor indicates in the filing that the*
24 *debtor will retain the property, the debtor fails to*
25 *meet an applicable requirement to—*

26 *“(i) either—*

1 “(I) redeem the property pursuant to
2 section 722; or

3 “(II) reaffirm the debt the property se-
4 cures pursuant to section 524(c); or

5 “(i) assume the unexpired lease pursuant
6 to section 365(d) if the trustee does not do so; or

7 “(2) the debtor fails to timely take the action
8 specified in a statement of intention referred to in
9 paragraph (1)(A) (as amended, if that statement is
10 amended before expiration of the period for taking ac-
11 tion), unless—

12 “(A) the statement of intention specifies re-
13 affirmation; and

14 “(B) the creditor refuses to reaffirm the debt
15 on the original contract terms for the debt.”.

16 (b) *DEBTOR’S DUTIES*.—Section 521(a)(2) of title 11,
17 *United States Code*, as redesignated by section 301(b) of
18 *this Act*, is amended—

19 (1) in the matter preceding subparagraph (A),
20 by striking “consumer”;

21 (2) in subparagraph (B)—

22 (A) by striking “forty-five days after the fil-
23 ing of a notice of intent under this section” and
24 inserting “30 days after the first meeting of
25 creditors under section 341(a)”; and

1 (B) by striking “forty-five-day period” and
 2 inserting “30-day period”; and
 3 (3) in subparagraph (C), by inserting “, except
 4 as provided in section 362(h)” before the semicolon.

5 **SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PUR-**
 6 **CHASE MONEY SECURED CREDITORS.**

7 (a) *IN GENERAL.*—Chapter 13 of title 11, United
 8 States Code, is amended by adding after section 1307 the
 9 following:

10 **“§ 1307A. Adequate protection in chapter 13 cases**

11 “(a)(1)(A) On or before the date that is 30 days after
 12 the filing of a case under this chapter, the debtor shall make
 13 cash payments in an amount determined under paragraph
 14 (2)(A), to—

15 “(i) any lessor of personal property; and

16 “(ii) any creditor holding a claim secured by
 17 personal property to the extent that the claim is at-
 18 tributable to the purchase of that property by the
 19 debtor.

20 “(B) The debtor or the plan shall continue making the
 21 adequate protection payments until the earlier of the date
 22 on which—

23 “(i) the creditor begins to receive actual pay-
 24 ments under the plan; or

1 “(ii) the debtor relinquishes possession of the
2 property referred to in subparagraph (A) to—

3 “(I) the lessor or creditor; or

4 “(II) any third party acting under claim of
5 right, as applicable.

6 “(2) The payments referred to in paragraph (1)(A)
7 shall be determined by the court.

8 “(b)(1) Subject to the limitations under paragraph (2),
9 the court may, after notice and hearing, change the amount
10 and timing of the dates of payment of payments made
11 under subsection (a).

12 “(2)(A) The payments referred to in paragraph (1)
13 shall be payable not less frequently than monthly.

14 “(B) The amount of a payment referred to in para-
15 graph (1) shall not be less than the reasonable depreciation
16 of the personal property described in subsection (a)(1), de-
17 termined on a month-to-month basis.

18 “(c) Notwithstanding section 1326(b), the payments
19 referred to in subsection (a)(1)(A) shall be continued in ad-
20 dition to plan payments under a confirmed plan until ac-
21 tual payments to the creditor begin under that plan, if the
22 confirmed plan provides—

23 “(1) for payments to a creditor or lessor de-
24 scribed in subsection (a)(1); and

1 “(2) for the deferral of payments to such creditor
2 or lessor under the plan until the payment of
3 amounts described in section 1326(b).

4 “(d) Notwithstanding sections 362, 542, and 543, a les-
5 sor or creditor described in subsection (a) may retain pos-
6 session of property described in that subsection that was
7 obtained in accordance with applicable law before the date
8 of filing of the petition until the first payment under sub-
9 section (a)(1)(A) is received by the lessor or creditor.”.

10 (b) *CLERICAL AMENDMENT.*—The table of sections at
11 the beginning of chapter 13 of title 11, United States Code,
12 is amended by inserting after the item relating to section
13 1307 the following:

 “1307A. Adequate protection in chapter 13 cases.”.

14 **SEC. 320. LIMITATION.**

15 Section 522 of title 11, United States Code, is amend-
16 ed—

17 (1) in subsection (b)(2)(A), by inserting “subject
18 to subsection (n),” before “any property”; and

19 (2) by adding at the end the following new sub-
20 section:

21 “(n)(1) Except as provided in paragraph (2), as a re-
22 sult of electing under subsection (b)(2)(A) to exempt prop-
23 erty under State or local law, a debtor may not exempt
24 any amount of interest that exceeds in the aggregate
25 \$100,000 in value in—

1 “(A) real or personal property that the debtor or
2 a dependent of the debtor uses as a residence;

3 “(B) a cooperative that owns property that the
4 debtor or a dependent of the debtor uses as a resi-
5 dence; or

6 “(C) a burial plot for the debtor or a dependent
7 of the debtor.

8 “(2) The limitation under paragraph (1) shall not
9 apply to an exemption claimed under subsection (b)(2)(A)
10 by a family farmer for the principal residence of that farm-
11 er.”.

12 **SEC. 321. MISCELLANEOUS IMPROVEMENTS.**

13 (a) *WHO MAY BE A DEBTOR.*—Section 109 of title 11,
14 United States Code, is amended by adding at the end the
15 following:

16 “(h) Notwithstanding any other provision of this sec-
17 tion, an individual may not be a debtor under this title
18 unless that individual has, during the 90-day period pre-
19 ceding the date of filing of the petition of that individual,
20 made a good-faith attempt to create a debt repayment plan
21 outside the judicial system for bankruptcy law (commonly
22 referred to as the ‘bankruptcy system’), through a credit
23 counseling program (offered through credit counseling serv-
24 ices described in section 111(a)) that has been approved
25 by—

1 “(1) the United States trustee; or

2 “(2) the bankruptcy administrator for the dis-
3 trict in which the petition is filed.”.

4 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
5 11, United States Code, is amended—

6 (1) in paragraph (9), by striking “or” at the
7 end;

8 (2) in paragraph (10), by striking the period
9 and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(11) after the filing of the petition, the debtor
12 failed to complete an instructional course concerning
13 personal financial management described in section
14 111 that was administered or approved by—

15 “(A) the United States trustee; or

16 “(B) the bankruptcy administrator for the
17 district in which the petition is filed.”.

18 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
19 11, United States Code, is amended by adding at the end
20 the following:

21 “(f) The court shall not grant a discharge under this
22 section to a debtor, unless after filing a petition the debtor
23 has completed an instructional course concerning personal
24 financial management described in section 111 that was ad-
25 ministered or approved by—

1 “(1) the United States trustee; or

2 “(2) the bankruptcy administrator for the dis-
3 trict in which the petition is filed.”.

4 (d) *DEBTOR’S DUTIES*.—Section 521 of title 11,
5 United States Code, as amended by sections 301(b) and
6 318(b) of this Act, is amended by adding at the end the
7 following:

8 “(e) In addition to the requirements under subsection
9 (a), an individual debtor shall file with the court—

10 “(1) a certificate from the credit counseling serv-
11 ice that provided the debtor services under section
12 109(h) or other substantial evidence of a good-faith
13 attempt to create a debt repayment plan outside the
14 bankruptcy system in the manner prescribed in sec-
15 tion 109(h); and

16 “(2) a copy of the debt repayment plan developed
17 under section 109(h) through the credit counseling
18 service referred to in paragraph (1).”.

19 (e) *EXCEPTIONS TO DISCHARGE*.—Section 523(d) of
20 title 11, United States Code, as amended by section 202
21 of this Act, is amended by striking paragraph (3)(A)(i) and
22 inserting the following:

23 “(i) before the filing of the petition, the debtor
24 made a good faith attempt pursuant to section 109(h)
25 to negotiate a reasonable alternative repayment sched-

1 *ule (including making an offer of a reasonable alter-*
 2 *native repayment schedule); and”.*

3 *(f) GENERAL PROVISIONS.—*

4 *(1) IN GENERAL.—Chapter 1 of title 11, United*
 5 *States Code, is amended by adding at the end the fol-*
 6 *lowing:*

7 **“§111. Credit counseling services; financial manage-**
 8 **ment instructional courses**

9 *“(a) The clerk of each district shall maintain a list*
 10 *of credit counseling services that provide 1 or more pro-*
 11 *grams described in section 109(h) and that have been ap-*
 12 *proved by—*

13 *“(1) the United States trustee; or*

14 *“(2) the bankruptcy administrator for the dis-*
 15 *trict.*

16 *“(b) The United States trustee or each bankruptcy ad-*
 17 *ministrator referred to in subsection (a)(1) shall—*

18 *“(1) make available to debtors who are individ-*
 19 *uals an instructional course concerning personal fi-*
 20 *nancial management, under the direction of the bank-*
 21 *ruptcy court; and*

22 *“(2) maintain a list of instructional courses con-*
 23 *cerning personal financial management that are oper-*
 24 *ated by a private entity and that have been approved*

1 *by the United States trustee or that bankruptcy ad-*
 2 *ministrator.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*
 4 *tions at the beginning of chapter 1 of title 11, United*
 5 *States Code, is amended by adding at the end the fol-*
 6 *lowing:*

“111. Credit counseling services; financial management instructional courses.”.

7 (g) *DEFINITIONS.—Section 101 of title 11, United*
 8 *States Code, as amended by section 317 of this Act, is*
 9 *amended—*

10 (1) *by inserting after paragraph (13) the follow-*
 11 *ing:*

12 “(13A) ‘debtor’s principal residence’—

13 “(A) means a residential structure, includ-

14 *ing incidental property, without regard to*

15 *whether that structure is attached to real prop-*

16 *erty; and*

17 “(B) includes an individual condominium

18 *or co-operative unit;”;* and

19 (2) *by inserting after paragraph (27A), as added*
 20 *by section 318 of this Act, the following:*

21 “(27B) ‘incidental property’ means, with respect

22 *to a debtor’s principal residence—*

23 “(A) property commonly conveyed with a

24 *principal residence in the area where the real es-*

25 *tate is located;*

1 “(B) all easements, rights, appurtenances,
2 *fixtures, rents, royalties, mineral rights, oil or*
3 *gas rights or profits, water rights, escrow funds,*
4 *or insurance proceeds; and*

5 “(C) all replacements or additions;”.

6 **SEC. 322. BANKRUPTCY JUDGESHIPS.**

7 (a) *SHORT TITLE.*—*This section may be cited as the*
8 *“Bankruptcy Judgeship Act of 1998”.*

9 (b) *TEMPORARY JUDGESHIPS.*—

10 (1) *APPOINTMENTS.*—*The following judgeship*
11 *positions shall be filled in the manner prescribed in*
12 *section 152(a)(1) of title 28, United States Code, for*
13 *the appointment of bankruptcy judges provided for in*
14 *section 152(a)(2) of such title:*

15 (A) *One additional bankruptcy judgeship*
16 *for the eastern district of California.*

17 (B) *Four additional bankruptcy judgeships*
18 *for the central district of California.*

19 (C) *One additional bankruptcy judgeship*
20 *for the southern district of Florida.*

21 (D) *Two additional bankruptcy judgeships*
22 *for the district of Maryland.*

23 (E) *One additional bankruptcy judgeship*
24 *for the eastern district of Michigan.*

1 (F) *One additional bankruptcy judgeship*
2 *for the southern district of Mississippi.*

3 (G) *One additional bankruptcy judgeship*
4 *for the district of New Jersey.*

5 (H) *One additional bankruptcy judgeship*
6 *for the eastern district of New York.*

7 (I) *One additional bankruptcy judgeship for*
8 *the northern district of New York.*

9 (J) *One additional bankruptcy judgeship*
10 *for the southern district of New York.*

11 (K) *One additional bankruptcy judgeship*
12 *for the eastern district of Pennsylvania.*

13 (L) *One additional bankruptcy judgeship*
14 *for the middle district of Pennsylvania.*

15 (M) *One additional bankruptcy judgeship*
16 *for the western district of Tennessee.*

17 (N) *One additional bankruptcy judgeship*
18 *for the eastern district of Virginia.*

19 (2) *VACANCIES.—The first vacancy occurring in*
20 *the office of a bankruptcy judge in each of the judicial*
21 *districts set forth in paragraph (1) that—*

22 (A) *results from the death, retirement, res-*
23 *ignation, or removal of a bankruptcy judge; and*

1 (B) occurs 5 years or more after the ap-
2 pointment date of a bankruptcy judge appointed
3 under paragraph (1);

4 shall not be filled.

5 (c) *EXTENSIONS.*—

6 (1) *IN GENERAL.*—The temporary bankruptcy
7 judgeship positions authorized for the northern dis-
8 trict of Alabama, the district of Delaware, the district
9 of Puerto Rico, the district of South Carolina, and the
10 eastern district of Tennessee under section 3(a) (1),
11 (3), (7), (8), and (9) of the Bankruptcy Judgeship Act
12 of 1992 (28 U.S.C. 152 note) are extended until the
13 first vacancy occurring in the office of a bankruptcy
14 judge in the applicable district resulting from the
15 death, retirement, resignation, or removal of a bank-
16 ruptcy judge and occurring—

17 (A) 8 years or more after November 8, 1993,
18 with respect to the northern district of Alabama;

19 (B) 10 years or more after October 28,
20 1993, with respect to the district of Delaware;

21 (C) 8 years or more after August 29, 1994,
22 with respect to the district of Puerto Rico;

23 (D) 8 years or more after June 27, 1994,
24 with respect to the district of South Carolina;

25 and

1 (E) 8 years or more after November 23,
 2 1993, with respect to the eastern district of Ten-
 3 nessee.

4 (2) *APPLICABILITY OF OTHER PROVISIONS.*—All
 5 other provisions of section 3 of the Bankruptcy Judge-
 6 ship Act of 1992 remain applicable to such temporary
 7 judgeship position.

8 (d) *TECHNICAL AMENDMENT.*—The first sentence of
 9 section 152(a)(1) of title 28, United States Code, is amend-
 10 ed to read as follows: “Each bankruptcy judge to be ap-
 11 pointed for a judicial district as provided in paragraph (2)
 12 shall be appointed by the United States court of appeals
 13 for the circuit in which such district is located.”.

14 (e) *TRAVEL EXPENSES OF BANKRUPTCY JUDGES.*—
 15 Section 156 of title 28, United States Code, is amended by
 16 adding at the end the following new subsection:

17 “(g)(1) In this subsection, the term ‘travel expenses’—

18 “(A) means the expenses incurred by a bank-
 19 ruptcy judge for travel that is not directly related to
 20 any case assigned to such bankruptcy judge; and

21 “(B) shall not include the travel expenses of a
 22 bankruptcy judge if—

23 “(i) the payment for the travel expenses is
 24 paid by such bankruptcy judge from the personal
 25 funds of such bankruptcy judge; and

1 “(i) such bankruptcy judge does not receive
2 funds (including reimbursement) from the
3 United States or any other person or entity for
4 the payment of such travel expenses.

5 “(2) Each bankruptcy judge shall annually submit the
6 information required under paragraph (3) to the chief
7 bankruptcy judge for the district in which the bankruptcy
8 judge is assigned.

9 “(3)(A) Each chief bankruptcy judge shall submit an
10 annual report to the Director of the Administrative Office
11 of the United States Courts on the travel expenses of each
12 bankruptcy judge assigned to the applicable district (in-
13 cluding the travel expenses of the chief bankruptcy judge
14 of such district).

15 “(B) The annual report under this paragraph shall in-
16 clude—

17 “(i) the travel expenses of each bankruptcy judge,
18 with the name of the bankruptcy judge to whom the
19 travel expenses apply;

20 “(ii) a description of the subject matter and pur-
21 pose of the travel relating to each travel expense iden-
22 tified under clause (i), with the name of the bank-
23 ruptcy judge to whom the travel applies; and

1 **SEC. 324. PREFERRED PAYMENT OF CHILD SUPPORT IN**
 2 **CHAPTER 13 PROCEEDINGS.**

3 *Section 1322(b)(1) of title 11, United States Code, is*
 4 *amended by striking the semicolon at the end and inserting*
 5 *the following: “and provide for the payment of any claim*
 6 *entitled to priority under section 507(a)(7) before the pay-*
 7 *ment of any other claim entitled to priority under section*
 8 *507(a), notwithstanding the priorities established under sec-*
 9 *tion 507(a).”.*

10 **SEC. 325. PAYMENT OF CHILD SUPPORT REQUIRED TO OB-**
 11 **TAIN A DISCHARGE IN CHAPTER 13 PROCEED-**
 12 **INGS.**

13 *Title 11, United States Code, is amended—*

14 *(1) in section 1325(a)—*

15 *(A) in paragraph (5), by striking “and” at*
 16 *the end;*

17 *(B) in paragraph (6), by striking the period*
 18 *at the end and inserting “; and”; and*

19 *(C) by adding at the end the following:*

20 *“(7) if the debtor is required by a judicial or ad-*
 21 *ministrative order to pay alimony to, maintenance*
 22 *for, or support of a spouse, former spouse, or child of*
 23 *the debtor, the debtor has paid all amounts payable*
 24 *under that order for alimony, maintenance, or sup-*
 25 *port that are due after the date on which the petition*
 26 *is filed.”; and*

1 (2) *in section 1328(a), as amended by section*
2 *314 of this Act, in the matter preceding paragraph*
3 *(1), by inserting “, and with respect to a debtor who*
4 *is required by a judicial or administrative order to*
5 *pay alimony to, maintenance for, or support of a*
6 *spouse, former spouse, or child of the debtor, only*
7 *after the debtor certifies as of the later of the date of*
8 *that completion or the date of certification that all*
9 *amounts payable under that order for alimony, main-*
10 *tenance, or support that are due before the date of*
11 *that certification have been paid in accordance with*
12 *the plan if applicable, or if the underlying debt is not*
13 *treated by the plan, paid in full” after “completion*
14 *by the debtor of all payments under the plan”.*

15 **SEC. 326. CHILD SUPPORT AND ALIMONY COLLECTION.**

16 *Section 362(b) of title 11, United States Code, is*
17 *amended—*

18 (1) *in paragraph (17), by striking “or” at the*
19 *end;*

20 (2) *in paragraph (18), by striking the period at*
21 *the end and inserting a semicolon; and*

22 (3) *by adding at the end the following:*

23 “(19) *under subsection (a) with respect to the*
24 *withholding of income pursuant to an order as speci-*

1 *fied in section 466(b) of the Social Security Act (42*
 2 *U.S.C. 666(b)); or*

3 *“(20) under subsection (a) with respect to the*
 4 *withholding, suspension, or restriction of drivers’ li-*
 5 *enses, professional and occupational licenses, and*
 6 *recreational licenses pursuant to State law, as speci-*
 7 *fied in section 466(a)(15) of the Social Security Act*
 8 *(42 U.S.C. 666(a)(15)) or with respect to the report-*
 9 *ing of overdue support owed by an absent parent to*
 10 *any consumer reporting agency as specified in section*
 11 *466(a)(7) of the Social Security Act (42 U.S.C.*
 12 *666(a)(7)).”.*

13 **SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
 14 **ALIMONY, MAINTENANCE, AND SUPPORT.**

15 *Section 523 of title 11, United States Code, as amend-*
 16 *ed by section 202 of this Act, is amended—*

17 *(1) in subsection (a), by striking paragraph (5)*
 18 *and inserting the following:*

19 *“(5) to a spouse, former spouse, or child of the*
 20 *debtor—*

21 *“(A) for actual alimony to, maintenance*
 22 *for, or support of that spouse or child;*

23 *“(B) that was incurred by the debtor in the*
 24 *course of a divorce or separation or in connec-*
 25 *tion with a separation agreement, property set-*

1 *tlement agreement, divorce decree, other order of*
 2 *a court of record, or determination made in ac-*
 3 *cordance with State or territorial law by a gov-*
 4 *ernmental unit; or*

5 *“(C) that is described in subparagraph (A)*
 6 *or (B) and that is assigned pursuant to section*
 7 *408(a)(3) of the Social Security Act (42 U.S.C.*
 8 *608(a)(3)), or to the Federal Government, a*
 9 *State, or any political subdivision of a State,*
 10 *but not to the extent that the debt (other than a debt*
 11 *described in subparagraph (C)) is assigned to another*
 12 *entity, voluntarily, by operation of law, or other-*
 13 *wise;” and*

14 *(2) in subsection (c), by striking “(6), or (15)”*
 15 *and inserting “or (6)”.*

16 **SEC. 328. ENFORCEMENT OF CHILD AND SPOUSAL SUP-**
 17 **PORT.**

18 *Section 522(c)(1) of title 11, United States Code, is*
 19 *amended by inserting “, except that, notwithstanding any*
 20 *other Federal law or State law relating to exempted prop-*
 21 *erty, such exempt property shall be liable for debts of a kind*
 22 *specified in paragraph (1) or (5) of section 523(a)” before*
 23 *the semicolon at the end of the paragraph.*

1 **SEC. 329. DEPENDENT CHILD DEFINED.**

2 Section 101 of title 11, United States Code, is amended
3 by inserting after paragraph (14) the following:

4 “(14A) ‘dependent child’ means, with respect to
5 an individual, a child who has not attained the age
6 of 18 and who is a dependent of that individual,
7 within the meaning of section 152 of the Internal
8 Revenue Code;”.

9 **TITLE IV—TECHNICAL**
10 **CORRECTIONS**

11 **SEC. 401. DEFINITIONS.**

12 Section 101 of title 11, United States Code, as amend-
13 ed by section 317, is amended—

14 (1) by striking “In this title—” and inserting
15 “In this title:”;

16 (2) in each paragraph, by inserting “The term”
17 after the paragraph designation;

18 (3) in paragraph (35)(B), by striking “para-
19 graphs (21B) and (33)(A)” and inserting “para-
20 graphs (23) and (35)”;

21 (4) in each of paragraphs (35A) and (38), by
22 striking “; and” at the end and inserting a period;

23 (5) in paragraph (51B)—

24 (A) by inserting “who is not a family farm-
25 er” after “debtor” the first place it appears; and

1 (B) by striking “thereto having aggregate”
2 and all that follows through the end of the para-
3 graph;

4 (6) by amending paragraph (54) to read as fol-
5 lows:

6 “(54) The term ‘transfer’ means—

7 “(A) the creation of a lien;

8 “(B) the retention of title as a security in-
9 terest;

10 “(C) the foreclosure of a debtor’s equity of
11 redemption; or

12 “(D) each mode, direct or indirect, absolute
13 or conditional, voluntary or involuntary, of dis-
14 posing of or parting with—

15 “(i) property; or

16 “(ii) an interest in property;”;

17 (7) in each of paragraphs (1) through (35), in
18 each of paragraphs (36) and (37), and in each of
19 paragraphs (40) through (56A) (including paragraph
20 (54), as amended by paragraph (6) of this section),
21 by striking the semicolon at the end and inserting a
22 period; and

23 (8) by redesignating paragraphs (4) through
24 (56A) in entirely numerical sequence, so as to result

1 *in numerical paragraph designations of (4) through*
2 *(72), respectively.*

3 **SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.**

4 *Section 104 of title 11, United States Code, is amended*
5 *by inserting “522(f)(3), 707(b)(5),” after “522(d),” each*
6 *place it appears.*

7 **SEC. 403. EXTENSION OF TIME.**

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

11 **SEC. 404. WHO MAY BE A DEBTOR.**

12 *Section 109(b)(2) of title 11, United States Code, is*
13 *amended by striking “subsection (c) or (d) of”.*

14 **SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
15 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
16 **TITIONS.**

17 *Section 110(j)(3) of title 11, United States Code, is*
18 *amended by striking “attorney’s” and inserting*
19 *“attorneys’ ”.*

20 **SEC. 406. LIMITATION ON COMPENSATION OF PROFES-**
21 **SIONAL PERSONS.**

22 *Section 328(a) of title 11, United States Code, is*
23 *amended by inserting “on a fixed or percentage fee basis,”*
24 *after “hourly basis,”.*

1 **SEC. 407. 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. 408. 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. 409. AUTOMATIC STAY.**

10 *Section 362(b) of title 11, United States Code, as*
11 *amended by section 326 of this Act, is amended—*

12 *(1) in paragraph (19), by striking “or” at the*
13 *end;*

14 *(2) in paragraph (20), by striking the period at*
15 *the end and inserting a semicolon; and*

16 *(3) by adding at the end the following:*

17 *“(21) under subsection (a) of this section of any*
18 *transfer that is not avoidable under section 544 and*
19 *that is not avoidable under section 549;*

20 *“(22) under subsection (a)(3) of this section, of*
21 *the continuation of any eviction, unlawful detainer*
22 *action, or similar proceeding by a lessor against a*
23 *debtor involving residential real property in which*
24 *the debtor resides as a tenant under a rental agree-*
25 *ment; or*

1 “(23) under subsection (a)(3) of this section, of
 2 the commencement of any eviction, unlawful detainer
 3 action, or similar proceeding by a lessor against a
 4 debtor involving residential real property in which
 5 the debtor resides as a tenant under a rental agree-
 6 ment that has terminated.”.

7 **SEC. 410. AMENDMENT TO TABLE OF SECTIONS.**

8 *The table of sections for chapter 5 of title 11, United*
 9 *States Code, is amended by striking the item relating to*
 10 *section 556 and inserting the following:*

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

11 **SEC. 411. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

15 **SEC. 412. PRIORITIES.**

16 *Section 507(a) of title 11, United States Code, as*
 17 *amended by section 323 of this Act, is amended—*

18 (1) *in paragraph (3)(B), by striking the semi-*
 19 *colon at the end and inserting a period; and*

20 (2) *in paragraph (7), by inserting “unsecured”*
 21 *after “allowed”.*

22 **SEC. 413. EXEMPTIONS.**

23 *Section 522 of title 11, United States Code, as amend-*
 24 *ed by section 320 of this Act, is amended—*

25 (1) *in subsection (f)(1)(A)(ii)(II)—*

1 (A) by striking “includes a liability des-
2 ignated as” and inserting “is for a liability that
3 is designated as, and is actually in the nature
4 of;” and

5 (B) by striking “, unless” and all that fol-
6 lows through “support”; and

7 (2) in subsection (g)(2), by striking “subsection
8 (f)(2)” and inserting “subsection (f)(1)(B)”.

9 **SEC. 414. EXCEPTIONS TO DISCHARGE.**

10 Section 523 of title 11, United States Code, is amend-
11 ed—

12 (1) in subsection (a)(3), by striking “or (6)”
13 each place it appears and inserting “(6), or (15)”;

14 (2) as amended by section 304(e) of Public Law
15 103–394 (108 Stat. 4133), in paragraph (15), by
16 transferring such paragraph so as to insert it after
17 paragraph (14) of subsection (a);

18 (3) in subsection (a)(9), by inserting
19 “, watercraft, or aircraft” after “motor vehicle”;

20 (4) in subsection (a)(15), as so redesignated by
21 paragraph (2) of this subsection, by inserting “to a
22 spouse, former spouse, or child of the debtor and”
23 after “(15)”;

24 (5) in subsection (a)(17)—

1 **SEC. 417. PROPERTY OF THE ESTATE.**

2 *Section 541(b)(4) of title 11, United States Code, is*
3 *amended—*

4 *(1) in subparagraph (B)(ii), by inserting “365*
5 *or” before “542”; and*

6 *(2) by adding “or” at the end.*

7 **SEC. 418. LIMITATIONS ON AVOIDING POWERS.**

8 *Section 546 of title 11, United States Code, is amended*
9 *by redesignating the second subsection (g) (as added by sec-*
10 *tion 222(a) of the Bankruptcy Reform Act of 1994; 108*
11 *Stat. 4129) as subsection (h).*

12 **SEC. 419. PREFERENCES.**

13 *Section 547 of title 11, United States Code, is amend-*
14 *ed—*

15 *(1) in subsection (b), by striking “subsection (c)”*
16 *and inserting “subsections (c) and (h)”;* and

17 *(2) by adding at the end the following:*

18 *“(h) If the trustee avoids under subsection (b) a secu-*
19 *rity interest given between 90 days and 1 year before the*
20 *date of the filing of the petition, by the debtor to an entity*
21 *that is not an insider for the benefit of a creditor that is*
22 *an insider, such security interest shall be considered to be*
23 *avoided under this section only with respect to the creditor*
24 *that is an insider.”.*

1 **SEC. 420. POSTPETITION TRANSACTIONS.**

2 *Section 549(c) of title 11, United States Code, is*
3 *amended—*

4 *(1) by inserting “an interest in” after “transfer*
5 *of”;*

6 *(2) by striking “such property” and inserting*
7 *“such real property”; and*

8 *(3) by striking “the interest” and inserting*
9 *“such interest”.*

10 **SEC. 421. TECHNICAL AMENDMENT.**

11 *Section 552(b)(1) of title 11, United States Code, is*
12 *amended by striking “product” each place it appears and*
13 *inserting “products”.*

14 **SEC. 422. 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. 423. DISPOSITION OF PROPERTY OF THE ESTATE.**

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

21 **SEC. 424. GENERAL PROVISIONS.**

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

24 **SEC. 425. APPOINTMENT OF ELECTED TRUSTEE.**

25 *Section 1104(b) of title 11, United States Code, is*
26 *amended—*

1 (1) by inserting “(1)” after “(b)”; and

2 (2) by adding at the end the following:

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

7 “(i) the trustee elected under paragraph (1) shall
8 be considered to have been selected and appointed for
9 purposes of this section; and

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

12 “(B) In the case of any dispute arising out of an elec-
13 tion under subparagraph (A), the court shall resolve the dis-
14 pute.”.

15 **SEC. 426. ABANDONMENT OF RAILROAD LINE.**

16 Section 1170(e)(1) of title 11, United States Code, is
17 amended by striking “section 11347” and inserting “section
18 11326(a)”.

19 **SEC. 427. CONTENTS OF PLAN.**

20 Section 1172(c)(1) of title 11, United States Code, is
21 amended by striking “section 11347” and inserting “section
22 11326(a)”.

1 **SEC. 428. DISCHARGE UNDER CHAPTER 12.**

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

5 **SEC. 429. EXTENSIONS.**

6 *Section 302(d)(3) of the Bankruptcy, Judges, United*
7 *States Trustees, and Family Farmer Bankruptcy Act of*
8 *1986 (28 U.S.C. 581 note) is amended—*

9 *(1) in subparagraph (A), in the matter following*
10 *clause (ii), by striking “or October 1, 2002, whichever*
11 *occurs first”; and*

12 *(2) in subparagraph (F)—*

13 *(A) in clause (i)—*

14 *(i) in subclause (II), by striking “or*
15 *October 1, 2002, whichever occurs first”;*
16 *and*

17 *(ii) in the matter following subclause*
18 *(II), by striking “October 1, 2003, or”; and*
19 *(B) in clause (ii), in the matter following*
20 *subclause (II)—*

21 *(i) by striking “before October 1, 2003,*
22 *or”; and*

23 *(ii) by striking “, whichever occurs*
24 *first”.*

1 **SEC. 430. BANKRUPTCY CASES AND PROCEEDINGS.**

2 *Section 1334(d) of title 28, United States Code, is*
3 *amended—*

4 *(1) by striking “made under this subsection” and*
5 *inserting “made under subsection (c)”; and*

6 *(2) by striking “This subsection” and inserting*
7 *“Subsection (c) and this subsection”.*

8 **SEC. 431. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
9 **RULE.**

10 *Section 156(a) of title 18, United States Code, is*
11 *amended—*

12 *(1) in the first undesignated paragraph—*

13 *(A) by inserting “(1) the term” before*
14 *“bankruptcy”; and*

15 *(B) by striking the period at the end and*
16 *inserting “; and”; and*

17 *(2) in the second undesignated paragraph—*

18 *(A) by inserting “(2) the term” before “doc-*
19 *ument”; and*

20 *(B) by striking “this title” and inserting*
21 *“title 11”.*

22 **SEC. 432. EFFECTIVE DATE; APPLICATION OF AMEND-**
23 **MENTS.**

24 *(a) EFFECTIVE DATE.—Except as provided in sub-*
25 *section (b), this title and the amendments made by this title*
26 *shall take effect on the date of enactment of this Act.*

1 **(b) APPLICATION OF AMENDMENTS.**—*The amendments*
2 *made by this title shall apply only with respect to cases*
3 *commenced under title 11, United States Code, on or after*
4 *the date of enactment of this Act.*